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STATE GOVERNMENT SERIES

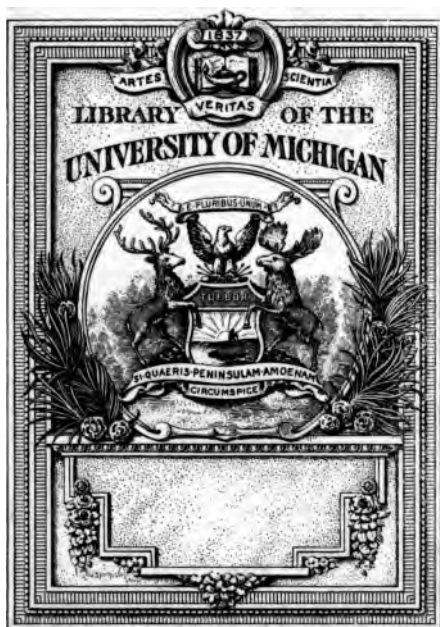
HISTORY AND GOVERNMENT OF OHIO



BY
S. R. HINSDALE

AND

MARY HINSDALE





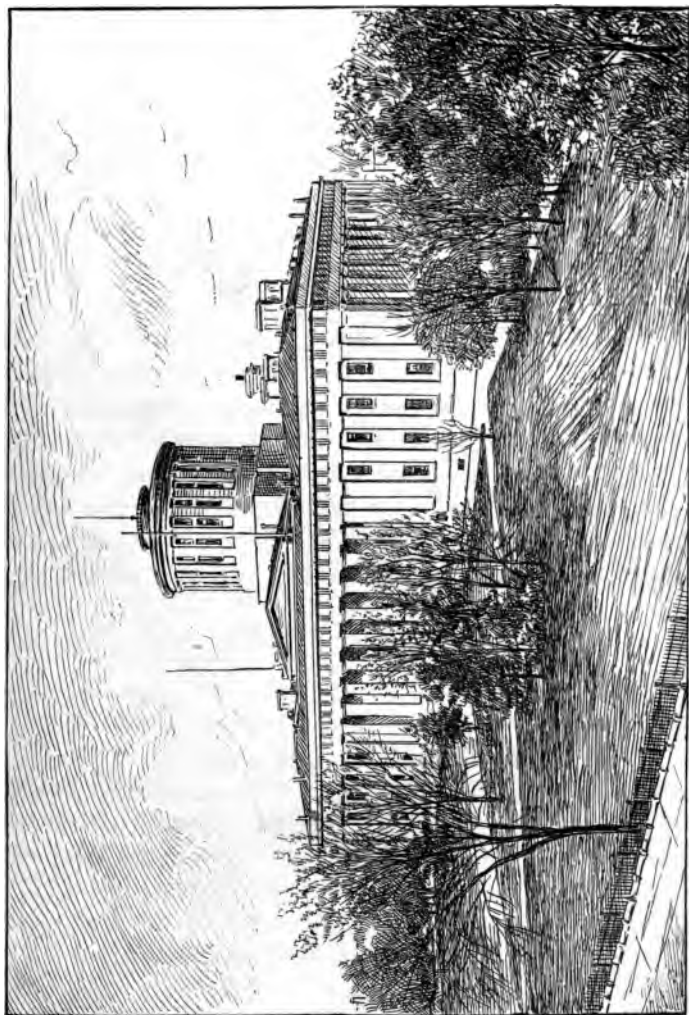
THE
STATE GOVERNMENT SERIES

EDITED BY

B. A. HINSDALE, Ph.D., LL.D.

—Y—

VOLUME II.



STATE CAPITOL.

HISTORY
AND
Civil Government of Ohio

Blue Pen
BY
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THE GOVERNMENT OF THE UNITED STATES
BY
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History and Government of Ohio



PREFACE.

The Authors of this work have striven to make it conform to the ideas set forth in the General Introduction to the Series. The teacher is earnestly advised to turn to that Introduction and study it carefully before attempting to teach the book. The same advice may be given to all students or readers of the book who have already some general acquaintance with the subject.

The History of Ohio is but an outline, and lays most stress on the formative period. Again, it deals most particularly with the political and civil side of the history. Here it has seemed best to present the facts with considerable fullness. The history of the Northwest Territory is, indeed, closely related to the other four States that were formed out of it, but to none so closely as to Ohio.

Part II., which deals with the State Government, is also but an outline. Still the cardinal facts have been presented, it is believed, with clearness. Intricate topics and technical language have been studiously shunned. In other words, the aim has been twofold: First, to explain those features of the State Government that every citizen should understand; secondly, to explain them in clear, direct, and simple language. The Authors think there is nothing in this Part that intelligent pupils in the public schools from the eighth grade upward, who are led by a capable teacher, can not understand without real difficulty. The only proviso is that the pupils must be willing to *read* and *think*. The same may be said of Part III.

A few words as to the order in which the three Parts of the book should be taken. Something may depend on the progress that the pupil has already made, and on the necessities of the school; but the typical pupil should take them in the order in which they are presented. If any one of them must be omitted, let it be Part III. In that case, however, the teacher should give some knowledge of the

National Government in teaching the Government of the State. Again, there is considerable matter in Part II. that the teacher should not attempt to teach or the pupil to learn. The lists of Minor State Departments, State Institutions, and Governors are given for information and reference, and not for study. The same may be said of the names of Senate and House Committees, the Judicial Districts, and all similar matter. Attention is also drawn to the explanatory note to Chapter X.

Teachers who are seeking a broader view of the National Government than can be found in this volume, are referred to the AMERICAN GOVERNMENT by the Senior Author.

ANN ARBOR, MICH., November 15, 1896.

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SOME BOOKS ON OHIO HISTORY.

Literature relating to Ohio is abundant. A few titles will be given, with notes and comments:

1. HOWE, HENRY: *Historical Collections of Ohio*. This well-known work first appeared in one volume in 1847. A centennial edition, in three volumes, was published in 1890, forming, as the title pages state, an encyclopedia of the State. While it is an admirable book for the teacher and general reader, it is not above the pupils of the public schools who study history. The work belongs to the State, the Legislature having purchased it of the original publishers. Moreover, the Legislature at the session of 1896 ordered the publication of a large edition for distribution and sale at first cost.

2. HINSDALE, B. A.: *The Old Northwest, with a View of the Thirteen Colonies as Constituted by the Royal Charters*. New York, 1888. While this work deals primarily with the Northwest of a century ago, it still contains several chapters devoted largely or wholly to Ohio topics. It is believed to contain the fullest extant account of the Western land claims and cessions. It is a book for teachers and general readers rather than pupils.

3. KING, RUFUS: *Ohio. First Fruits of the Ordinance of 1787* (one of the series entitled "American Commonwealths"). Boston. This is the best compendious history of Ohio.

4. BLACK, ALEXANDER: *The Story of Ohio*. Boston, D. La-throp & Co. (one of the series called "The Story of the States"). This work is less valuable than Mr. King's, but more popular.

5. HILDRETH, S. P.: *Biographical and Historical Memoirs of the Early Pioneer Settlers of Ohio, with Narratives of Incidents and Occurrences in 1775*. Cincinnati, 1852.

6. HILDRETH, S. P.: *Pioneer History: Being an Account of the First Examinations of the Ohio Valley and the Early Settlement of the Northwest Territory*. Cincinnati, 1878. Dr. Hildreth's volumes are invaluable to the student of Ohio history. Unfortunately, they are out of print, but they can be found in libraries and in second-hand book stores.

7. REID, WHITELAW: *Ohio in the War; Her Statesmen, Generals, and Soldiers*. 2 vols. This is a book of great value.

The Robert Clarke Co., Cincinnati, publish many works of the greatest value relating to Ohio and Ohio subjects. The following are books for the teacher, student, and general reader rather than the pupil in the public schools:

8. SMITH, WILLIAM HENRY: *The St. Clair Papers. The Life and Public Services of Arthur St. Clair, etc.* 1882. 2 vols. A contribution of the greatest value to the history of the State.

9. CUTLER, WILLIAM PARKER and JULIA PERKINS: *Life, Journals, and Correspondence of Manasseh Cutler, LL.D.* 2 vols. 1888.

11. VENABLE, W. H.: *The Beginnings of Literary Culture in the Ohio Valley; Historical and Biographical Sketches.* 1891.

The volumes of the "Ohio Valley Historical Series," also published by the Robert Clarke Co., are a mine of information relating to the State.

Probably every county and considerable city in the State has been made the subject of one or more county or city histories. Many towns and townships have been similarly treated. Some of these books are poorly prepared and are of little value; some of them are excellent; most, if not all, contain material that the teacher can use to advantage for the purpose of interesting the pupil and developing the historical sense. The study of history, like the study of geography, should begin at home. Good material also appears from time to time in the magazines and newspapers, and children, if put on the scent, will watch for it. Admirable historical articles are of frequent occurrence in the magazines. For example, Hon. Theodore Roosevelt contributed "St. Clair's Defeat" and "Mad Anthony Wayne's Victory" to *Harper's New Monthly Magazine* for February and April, 1896.

Charles Nordhoff's *Politics for Young Americans* is an excellent work for both teacher and pupil.

Alexander Johnston's *History of American Politics* should be in the hands of every teacher of United States History and Civil Government.

Reference is also made to B. A. Hinsdale's *How to Study and Teach History*. D. Appleton & Co., New York, 1894. (Particularly the last chapter, entitled "Teaching Civics"), and the same writer's articles in *The Ohio Educational Monthly*, September, October, and November, 1896.

GENERAL INTRODUCTION.

The character of the volumes that will comprise The State Government Series is indicated by the name of the series itself. More definitely, they will combine two important subjects of education, History and Government. It is proposed in this Introduction briefly to set forth the educational character and value of these subjects, and to offer some hints as to the way in which they should be studied and taught, particularly as limited by the character of the Series.

1. THE EDUCATIONAL VALUE OF THE STUDY OF HISTORY AND GOVERNMENT.

✓ Not much reflection is required to show that both of these subjects have large practical or guidance value, and that they also rank high as disciplinary studies.

1. *History.*—(When it is said that men need the experience of past ages to widen the field of their personal observation to correct their narrow views and mistaken opinions, to furnish them high ideals, and to give them inspiration or motive force; and that history is the main channel through which this valuable experience is transmitted to them—this should be sufficient to show that history is a very important subject of education. On this point the most competent men of both ancient and modern times have delivered the most convincing testimony. Cicero called history “the witness of times, the light of truth, and the mistress of life.” Dionysius of Halicarnassus said “history is philosophy teaching by

examples," and Lord Bolingbroke lent his sanction to the saying. Milton thought children should be taught "the beginning, the end, and the reasons of political societies.") Another writer affirms that "history furnishes the best training in patriotism, and enlarges the sympathies and interests." Macaulay said: "The real use of traveling to distant countries, and of studying the annals of past times, is to preserve them from the contraction of mind which those can hardly escape whose whole commerce is with one generation and one neighborhood."

(In every great field of human activity the lessons of history are invaluable—in politics, religion, education, moral reform, war, scientific investigation, invention and practical business affairs. The relations of history and politics are peculiarly close. There could be no science of politics without history, and practical politics could hardly be carried on. But, more than this, there can be no better safeguard than the lessons of history against the specious but dangerous ideas and schemes in relation to social subjects that float in the atmosphere of all progressive countries. In fact, there is no other safeguard that is so good as these lessons; they are experience teaching by examples. The man who has studied the history of the Mississippi Scheme, the South Sea Bubble, or some of the less celebrated industrial or economical manias that have afflicted our own country, is little likely to embark in similar schemes himself, or to promote them. The man who has studied the evils that irredeemable paper money caused in France in the days of the Revolution, or the evils that the Continental money caused in our own country, will be more apt to form sound views on the subjects of currency and banking than the man who has had no such training. The

school of history is a conservative school, and its lessons are our great defense against cranks, faddists, and demagogues.)

2. *Government.*—Politics is both a science and an art. It is the science and the art of government. As a science it investigates the facts and principles of government; as an art it deals with the practical applications of these facts and principles to the government of the state.

Now it is manifest that the art of politics, or practical government, directly concerns everybody. Few indeed are the subjects in which men, and particularly men living in great and progressive societies, are so deeply interested as in good government. The government of the state is charged with maintaining public order, securing justice between man and man, and the promotion of the great positive ends of society. For these purposes it collects and expends great revenues, which are ultimately paid from the proceeds of the labor of the people. Furthermore, in republican states, such as the American Union and the forty-five individual States that make up the Union, government is carried on by the people through their representatives chosen at popular elections. The voters of the United States are a great and rapidly growing body. In the presidential election of 1888, 11,388,007 citizens participated; in the presidential election of 1892, 12,078,657—a growth of nearly 700,000 in four years. Moreover, these voters are felt in many other ways and places; they vote for National representatives, for State legislatures, executives, and judges, for county, township, and city offices, for the supervisors of roads and the directors of the public schools. There is not a point in the whole round of National, State, and Local government that the popular will, as expressed at elections,

does not touch. Every man is, therefore, directly concerned to understand the nature and operations of these governments, and almost equally concerned to have his neighbors also understand them.

We have been dealing with practical politics exclusively. But the art of government depends upon the science of government. The government of a great country like our own, at least if a good one, is a complicated and delicate machine. Such a government is one of the greatest triumphs of the human mind. It is the result of a long process of political experience, and in its elements at least it runs far back into past history. It is, therefore, a most interesting study considered in itself. All this is peculiarly true of our own government, as will be explained hereafter.

However, this complicated and delicate machine is not an end, but only a means or instrument; as a means or instrument it is ordained, as the Declaration of Independence says, to secure to those living under it their rights—such as life, liberty, and the pursuit of happiness; and the extent to which it secures these rights is at once the measure of its character, whether good or bad.

It is also to be observed that a government which is good for one people is not of necessity good for another people. We Americans would not tolerate a government like that of Russia, while Russians could hardly carry on our government a single year. A good government must first recognize the general facts of human nature, then the special character, needs, habits, and traditions of the people for whom it exists. It roots in the national life and history. It grows out of the national culture. Since government is based on the facts of human nature and human society, it is not a mere crea-

ture of accident, chance, or management. In other words, there is such a thing as the science of government or politics. Moreover, to effect and to maintain a good working adjustment between government and a progressive society, is at once an important and difficult matter. This is the work of the practical statesman. And thus we are brought back again to the fact that the science of government is one of the most useful of studies.

Mention has been made of rights, and of the duty of government to maintain them. But rights always imply duties. For example: A may have a right to money that is now in B's possession, but A cannot enjoy this right unless B performs the duty of paying the money over to him. If no duties are performed, no rights will be enjoyed. Again, the possession of rights imposes duties upon him who possesses them. For example: The individual owes duties to the society or the government that protects him in the enjoyment of his rights. Rights and duties cannot be separated. Either implies the other. Accordingly, the practical study of government should include, not only rights, but also duties as well. The future citizen should learn both lessons; for the man who is unwilling to do his duty has no moral claim upon others to theirs.

The foregoing remarks are particularly pertinent to a republican government, because under such a government the citizen's measure of rights, and so of duties, is the largest. Here we must observe the important distinction between civil and political rights. The first relate to civil society, the second to civil government. Life, liberty of person, freedom of movement, ownership of property, use of the highways and public institutions, are civil rights. The suffrage, the right to hold

office under the government, and general participation in public affairs are political rights. These two classes of rights do not necessarily exist together; civil rights are sometimes secured where men do not vote, and men sometimes vote where civil rights are not secured; moreover, both kinds of rights may be forfeited by a citizen through his own bad conduct. Evidently political rights are subordinate to civil rights. Men participate in governmental affairs as a means of securing great ends for which civil society exists. But the great point is this—republican government can be carried successfully only when the mass of the citizens make their power felt in political affairs; in other words, perform their political duties. To vote in the interest of a good government, is an important political duty that a citizen owes to the state. Still other political duties are to give the legally constituted authorities one's support, and to serve the body politic when called to do so. These duties grow out of the corresponding rights, and to teach them is an essential part of education.

It has been remarked that good government depends upon the facts of human nature and society. A government is a complicated machine, and is an interesting subject of study. It is also true that the successful operation of such a government depends for high intellectual and moral qualities upon the part of statesmen and public men, and upon the part of the citizens themselves. There are no ignorant and corrupt people enjoying prosperity under a wise and good monarch; nor is there an example of a democratic or republican government prospering unless there is a good standard of morality and virtue. This is one of the lessons

impressed in his Farewell Address: "In proportion as the structure of a government gives force to public opinion, it is essential that public opinion shall be intelligent."

Government deals with man in his general or social relations. Robinson Crusoe living on his island neither had, nor could have had, a government. Man is born for society; or, as Aristotle said, "man has a social instinct implanted in him by nature." Again, man is political as well as social; or, as Aristotle says, "man is more of a political animal than bees, or any other gregarious animal." Hence the same writer's famous maxim, "Man is born to be a citizen."

These last remarks bring before the mind, as a subject of study, man in his relations to his fellow men. The study of man in these relations has both practical and disciplinary value. At first man is thoroughly individual and egotistical. The human baby is as selfish as the cub of the bear or of the fox. There is no more exacting tyrant in the world. No matter at what cost, his wants must be supplied. Such is his primary nature. But this selfish creature is endowed with a higher, an ideal nature. At first he knows only rights, and these he greatly magnifies; but progressively he learns, what no mere animal can learn, to curb his appetites, desires, and feelings, and to regard the rights, interests, and feelings of others. To promote this process, as we have already explained, government exists. In other words, the human being is capable of learning his relations to the great social body of which he is a member. Mere individualism, mere egotism, is compelled to recognize the force and value of altruistic conviction and sentiment. And this lesson, save alone his relations to the Supreme Being, is the greatest lesson

that man ever learns. The whole field of social relations, which is covered in a general way by Sociology, is cultivated by several sciences, as ethics, political economy, and politics; but of these studies politics or government is the only one that can be introduced in didactic form into the common schools with much success. In these schools civil government should be so taught as to make it also a school of self-government.

It may be said that so much history and politics as is found in these volumes, or so much as can be taught in the public schools, does not go far enough to give to these studies in large measure the advantages that have been enumerated. There would be much force in this objection, provided such studies were to stop with the elementary school. But fortunately this is not the case. The history and the politics that are taught in the elementary school prepare the way for the history and the politics that are taught in the college and the university. Furthermore, and this is in one aspect of the subject still more important, they also prepare the way for much fruitful private study and reading in the home.

II. METHODS OF STUDY AND TEACHING.

Under this head history will be considered only so far as it is involved in politics. Our first question is, Where shall the study of government begin? The answer will be deferred until we have considered the general features of the government under which we live.

The United States are a federal state, and the American government is a dual government. Our present National Government dates from the year 1789. It was created by the Constitution, which, in that year, took the place of the Articles of Confederation. At that time the State governments were in full operation, and it was

not the intention of the framers of the Constitution, or of the people who ratified it, to supersede those governments, or, within their proper sphere, to weaken them. Experience had conclusively shown that the country needed a stronger National Government, and this the people undertook to provide. So they undertook to accomplish in the Constitution the objects that are enumerated in the Preamble.

“We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

The Constitution also formally denied some powers to the United States and some to the States; that is, it forbade the one or the other to exercise the powers so prohibited. (See Article I, sections 9, 10.) The understanding was that the mass of powers not delegated to the Union exclusively, or forbidden to the States, continued to remain in the hands of the people in their State capacities. Moreover, this understanding was expressly asserted in Article X of the Amendments.

Accordingly, the Government of the United States must be studied under two aspects, one National and one State. The case is quite different from what it would be in England or France, both of which countries have single or unitary governments. This duality makes the study more interesting, but more difficult, and suggests the question whether it should begin with the Nation or the State. The answer must be deferred until still other facts have been taken into account.

The powers that the State Governments exercise are exercised through a variety of channels. (1.) Some are exercised directly by State officers. For the most part these are powers that concern the State as a whole. (2.) Some are exercised by county officers within the county. (3.) Some are exercised by town or township officers within the town or county. (4.) Some are exercised by city or municipal officers within the city. (5.) A few fall to officers elected by divisions of townships, as road-masters and school directors.

Items 2, 3, 4 and 5 of this enumeration constitute Local government, which the people of all the States, in some form, have retained in their own hand. Here we meet a political fact that distinguishes us from some other countries, the vigorous vitality of local institutions. France, for example, although a republic, has a centralized government; many powers are there exercised by national officers that here are exercised by local officers, while there the state often asserts direct control over the local authorities. Strong attachment to local self-government, and opposition to centralized government, is one of the boasted glories of the English-speaking race. Subject to the State constitution, the State Legislature is the great source of political power within the State. The county, the township, and the city owe their political existence and peculiar organization to the Legislature.

Different States have organized local government in different ways. Speaking generally, there are three types—the Town type, the County type, and the Mixed type. The Town type is found exclusively in the New England States. It throws most of the powers of local government into the hands of the town, few into the hands of the county. The County type, which is found

in the Southern States and in a few others, reverses this method; it throws all local powers into the hands of the county, and makes the sub-divisions of the county merely an election precinct, the jurisdiction of the justice of the peace, and perhaps the unit of the militia company. The Mixed, or Compromise system, as its name implies, combines features of the other two. It makes more use of the county, and less of the town, than New England; more of the township, and less of the county, than the South. It is found in the Central States and generally, but not universally, throughout the West.

Now not much argument is needed to show that the study of government, even within the limits of the elementary school, should embrace the two spheres in which the American Government moves, the sphere of the Nation and the sphere of the State. Neither is much argument called for to show that the study of the State should embrace Local government, as well as State government proper. The argument on the whole subject divides into two main branches—the one practical, the other pedagogical.

Unfortunately, the time given to the study of government in the schools has not always been wisely distributed. For many years the National Government received disproportionate attention, and such, though perhaps in less degree, is still the case. But, important as the powers of the Nation are, the common citizen, in time of peace, has few relations with it outside of the Post Office Department, while his relations with the State are numerous and constant. President Garfield, in 1871, said: "It will not be denied that the State government touches the citizen and his interests twenty times where the National Government touches him once."

1

Still another point may be urged. An American State is a distinct political community. It is a separate commonwealth having its own constitution, laws, and officers. It has its own history. The people boast its services to the country. They point to its great names. They glorify the associations that cluster about its name. They dwell upon its typical or ideal life. All this is educative in a striking sense; such an environment necessarily reacts upon the people. Who can measure the effect of the old Bay State ideal, or the Old Dominion ideal, upon the people of either State?

Once more, Local government has received too little attention as compared with State government proper. Township or county government is on such a diminutive scale that to many it seems a subject unworthy of serious study. But it is important to teach the youth of the county that their future prosperity and happiness, as a rule, will depend upon what is done by road-masters, school directors, township trustees or supervisors, county commissioners or county courts, city authorities, and the like, far more than upon what is done by the Governor or the President. The common citizen is tenfold more concerned in the proceedings in the courts held by justices of the peace and by county judges than in the causes that are decided by the Supreme Court of the United States.

Government is fundamentally an information or guidance study. It is put in the schools to teach the pupil how to perform his political duties intelligently when he comes to the state of manhood. In order that he may perform these duties intelligently, he must understand the nature and the ends of government, whether National, State, or Local, and the mode of its operation.

The fact is, however, that characteristic features of our government are ill understood by thousands of our citizens. The functions of the Executive and of the Judiciary are often confounded; likewise the functions of State authorities and National authorities. A multitude of citizens participate in every election of electors for President, who do not know how the President is elected. The line dividing the State sphere from the National sphere is a very hazy matter to many persons who consider themselves intelligent. Owing partly to this fact, and partly to the greater prominence of the Union, there is always a tendency in many quarters to hold the National authorities responsible for what the State authorities have or have not done. The adjustment of Local Government to the State and National Governments is another matter concerning which many are confused. Tax-payers can be found in every neighborhood who think the taxes that they pay to the township or the county treasurer go to Washington.

What has been said will suffice for the practical branch of the argument. Taking up the pedagogical branch, let us first observe the nature and the origin of the child's early education in respect to government.

It is in the family, in personal contact with its members, that the child forms the habits of obedience and deference to others. It is here that he learns, in a rudimentary and experimental way, that he is part of a social whole. Here he acquires the ideas to which we give the names *obedience*, *authority*, *government*, and the like. His father (if we may unify the family government) is his first ruler, and the father's word his first law. Legislative, executive, and judicial functions are centered in a single person. These early habits and ideas are the foundations of the child's whole future education in government, both practical and theoretical.

His future conception of the governor, president, king, or emperor is developed on the basis of the idea of his father; his conception of society, on the basis of the idea of his home; his conception of government by the State, on the basis of family government. Of course these early habits and ideas are expanded, strengthened, and adjusted to new centers.

While still young, the child goes to school. This, on the governmental side, is but a repetition of the home. It is the doctrine of the law that the teacher takes the place of the parent: *in loco parentis*. The new jurisdiction may be narrower than the old one, but it is of the same kind. The education of the school reinforces the education of the home in respect to this all-important subject. The habits of obedience and deference are strengthened. The child's social world is enlarged. At first he thought, or rather felt, that he was alone in the world; then he learned that he must adjust himself to the family circle; now he discovers that he is a member of a still larger community, and that he must conduct himself accordingly. The ideas of authority, obedience, law, etc., are expanded and clarified.

About the time that the child goes to school he begins to take lessons in civil government. This also is developed on the basis of his previous home-training. It begins at the very door-step. The letter-carrier, the policeman, the justice of the peace, and the postmaster introduce him to the government of the outer world. Some or all of these officers he sees and knows, and others he hears about. The very mail wagon that rattles along the street teaches its lesson, and so do other symbols of authority that confront him. He attends an election and hears about the caucus. As he grows older, the town council, the court of the local magistrate, and the constable or sheriff teach him the

meaning of the three great branches of government. His ears as well as his eyes are open. Politics is the theme of much familiar conversation to which he listens. With all the rest, he reads the newspaper, and so enlarges his store of political information.

Still other agencies contribute to the grand result. The church, public meetings, societies of various kinds, all teach the lessons of order and discipline.

Such, in general, are the steps by which the child makes his way out of the world of isolation and selfishness into the world of social activity and light. Such is the character of his early education in morals and politics. Nor is it easy to overestimate these early lessons. To suppose that the child's political education begins when he first reads the Constitution of the United States, is like supposing that his moral education begins when he is first able to follow the preacher's sermon.

All this training is unconscious and mainly incidental, and the more effective for that very reason. But such training will not meet the ends of intelligent citizenship. Nor can the political education of citizens be left to the newspaper and the political speaker. Government must be formally taught in the schools. But what shall be the order of study? Shall the child begin at Washington, at the State capital, or at his own home? In other words, shall he begin with the National Government, with the State government proper, or with Local government?

For a time the student of government should continue to work on the material that lies right about him, just as the student of geography should find his first lessons at home. On this point the arguments already presented are decisive. The practical argument shows that this will be the most useful course to pursue. The pedagogical argument shows that it is also the easiest, the

most natural, and the most successful. In general then the method should be—first, the Local Government; second, the State Government, and last, the National Government.

We have now reached a point where we can define more clearly and fully the special object of the series of books to which this is a general introduction. These books are designed for the first stage of the formal study of the subject of Government. They are written on the theory announced; viz.: that the child's political education begins at home, and should for a time proceed from the home outward. The series is appropriately named The State Government Series. A volume will be given to a State. The successive volumes will first present an outline sketch of the civil history of the State, and then outline sketches of the State and National Governments as they now exist and operate.

With two or three practical suggestions to teachers, this Introduction may fitly close.

The first of these suggestions is that if the proper course be taken, the study of the National system will not be deferred until the pupil has made a complete survey of the State System. The State system can no more be understood alone than the National system alone. When the intelligent pupil, and particularly a boy, is old enough to take up one of the volumes of this series, he will already have made some progress in discriminating the two systems. He will know that Congress and the President belong to the Nation, the Legislature and the Governor to the State. But at the outset it may be advisable for the teacher to broaden and deepen this line of division. This can be done, if need be, in one or more oral lessons devoted especially to the subject. Moreover, the teacher should keep an eye on this line from first to last. He should encourage the pupil to read the

Constitution of the United States, and in particular should direct his attention to the general powers of Congress as summed up in Article I, section 8, which are the driving wheels of the National Government.

The second observation is that unremitting care must be taken to make the instruction real. The common-places about the abstractness and dryness of verbal instruction, and particularly book instruction, will not be dwelt upon, except to say that they apply to our subject with peculiar force. The study of history, when it is made to consist of memorizing mere facts, is to the common pupil a dry and unprofitable study. Still more is civil government dry and unprofitable when taught in the same manner. There is little virtue in a mere political document or collation of political facts. The answer that the school boy made to the question, "What is the Constitution of the United States?" is suggestive. He said it was the back part of the History that nobody read. Hence the book on government must be connected with real life, and to establish this connection is the business of the teacher. On this point three or four particular suggestions may be made.

The teacher should not permit the Governor, for example, to be made a mere skeleton. He should see rather that he is made to the pupil a man of flesh and blood, holding a certain official position and exercising certain political powers. It is better to study the Governor than the Executive branch of the government; better to inquire, What does the Government do? than, What are the powers of the Executive?

The teacher should stimulate the pupil to study the political facts about him. He should encourage him to observe the machinery of political parties, the holding of elections, council meetings, courts of local magistrates, and the doings of the policeman, constable, and

sheriff. This suggestion includes political meetings and conversations upon political subjects. By observation an undue personal attendance upon such proceedings is not meant. To that, of course, there might be several objections.

Pupils in schools should be encouraged to read the newspapers, for political among other reasons. The publications prepared particularly for school use to which the general name of "Current Events" may be given, are deserving of recommendation.

Still another thought is that the study be not made too minute. It should bear rather upon the larger features of the special topics. This remark is particularly applicable to the judiciary, which nearly all persons of ordinary education find more or less confusing.

The suggestions relative to observation of political facts are peculiarly important in a country like our own. To understand free government, you must be in touch with real political life.

In teaching Civil Government, the first point is to develop Civic Spirit—the spirit that will insist upon rights and perform duties.

The last word is a word of caution. The method that has been suggested can easily be made too successful. Our American atmosphere is charged with political interest and spirit; and, while the pupil who takes a lively interest in current politics, as a rule, will do better school work than the pupil who does not, the teacher must exercise care that partisan spirit be not awakened, and that occupation in current events do not mount up to a point where it will interfere with the regular work of the school.

B. A. HINSDALE.

University of Michigan, 1895.

PART I

HISTORY OF OHIO

CHAPTER I

A GENERAL VIEW OF THE STATE

1. **Name of the State.**—Ohio was first the Indian name of the river that forms the southern boundary of the State, and means beautiful, or beautiful river. It was applied by the Iroquois Indians. The French, also, when they came to know the stream, gave it the same name, calling it *La Belle Rivière*. From the river the name passed to the State.¹

2. **Boundaries.**—The student of geography reading in school his map gives the following as the boundaries of Ohio: On the north, Michigan and Lake Erie; on the east, Pennsylvania and West Virginia; on the south, the Ohio River, which separates the State from West Virginia and Kentucky; on the west, Indiana. While such a description as this answers well enough for

¹ The "Buckeye State" and "Buckeye" are names frequently applied to Ohio and Ohio people. The name came from the Buckeye tree, which flourishes in the southern valleys of the State. The circumstances under which this name was first applied are not altogether clear. It became very prominent, however, in 1840, when General Harrison was a candidate for the Presidency. See the interesting chapter, "Why is Ohio Called the Buckeye State?" by William M. Farrar, Howe's *Historical Collections of Ohio*, Vol. I., pp. 200-207.

ordinary purposes, it is still best to give in this place the limits of the State more exactly.

To do this we will first imagine three straight lines to be laid down on the map: (1) A meridian line drawn through a point in the boundary between Pennsylvania and West Virginia five degrees of longitude west from the Delaware River, north to the International boundary line between the United States and Canada. (2) A meridian line drawn north from the mouth of the Big Miami River until it is intersected by line 3. (3) A straight line drawn from the southern extremity of Lake Michigan to the most northern point or cape in Maumee Bay. The eastern boundary of the State is the first of these lines from the International boundary to the Ohio River. The southern boundary is the river from its intersection with line 1 to its intersection with line 2; or, more definitely, low water-mark on the northern side of the river. The western boundary is the third line from the Ohio River to its intersection with line 3. The northern boundary is the third line from its intersection with line 2 to the cape in Maumee Bay, a line drawn northeast from this cape to the International boundary, and this boundary eastward to the place of beginning.

3. Surface.—Ohio lies partly in the basin of Lake Erie and partly in the valley of the Ohio; or, to use broader terms, partly in the St. Lawrence and Lake basin and partly in the Mississippi Valley. The “divide” that separates the heads of the streams which flow northward to the lake from those that flow southward to the river, enters the State from Pennsylv-

vania nearly on the line separating Ashtabula and Trumbull Counties; and from this point, with many turnings and twistings, it runs southwestward across the State, passing out of it into Indiana in Darke County. About one-fourth of the State is on the northern or short slope, three-fourths on the southern or long slope. The summits of the two canals that connect the lake and the river are less than 400 feet above the lake level, but the highest parts of the "divide" rise to more than three times that elevation. The highest land in the State thus far measured is near the City of Bellefontaine, Logan County. It is 1550 feet above mean tide level. The lowest point is the junction of the Great Miami and Ohio Rivers, 440 feet above the same level. In respect to surface, the State stands midway between the mountainous States of the East and the prairie States of the West. In parts it is level, in parts hilly. In a state of nature much the larger part of its surface was covered with heavy forests, but there were also extensive prairie tracts, found mostly in the northwest. The most southerly point in the State is about $38^{\circ} 27'$ north latitude, the most northerly point about $41^{\circ} 57'$; while it is situated between $80^{\circ} 34'$ and $84^{\circ} 49'$ west longitude.

4. Natural Resources.—Few States, if indeed any, surpass Ohio in varied natural resources. The State holds high rank in respect to agricultural productions; different parts present considerable differences of soil. It abounds in mineral wealth—in coal, iron, and quarries of valuable stone; in oil, gas, and salt. The native forests of valuable woods have also contributed largely to her wealth. And finally, situated as she is

between the Atlantic States and the States of the farther West, and lying as she does between the Northern and Southern systems of waters, she has advantages for carrying on manufactures and commerce such as are enjoyed by few of her sister States.

5. Rank.—Ohio was the fourth new State to enter the Union, and so is the seventeenth in point of number. In respect to size she is the thirty-first State. The State is nearly square; the longest east and west line that can be drawn within her limits is 210 miles, the longest north and south line, 225 miles. The surface embraces 40,760 square miles of territory, or about 26,000,000 acres. But in population and wealth her rank is far higher. In these particulars she stands below only New York, Pennsylvania, and Illinois. In 1890 her total population was 3,672,370, and her total wealth \$3,951,382,384.00.

Such is a mere glance at Ohio. We are now to take a general view of the history of the State from the earliest times.

CHAPTER II

THE PERIOD OF FRENCH DOMINATION.¹

6. Rival Claims to Ohio.—In the ~~eighteenth~~^{seventeenth} century English colonists planted themselves firmly on the Atlantic shore, extending from Maine to Georgia. At the same time the French established themselves securely in the St. Lawrence Valley. Jamestown and Quebec, Plymouth and Montreal, were founded almost at the same time. The King of England claimed the continent back of his colonies to the Pacific Ocean. The King of France asserted a right to the whole region that drains to the sea by the St. Lawrence. The English colonists, being shut in to the seaboard by the Appalachian Mountains, for a long time took little interest in the interior of the continent, and really did nothing to explore it. The French colonists, on the other hand, being favored by the great system of waters on which they had established themselves, pushed into the Northwest and discovered the Great Lakes and the parts contiguous to them. Nor was this all. Hearing from the Indians whom they met on the Upper Lakes of a "great water" to the west, they crossed the "divides" separating the streams flowing to the Lakes from the streams flowing to the

¹ The field of history covered by this brief chapter has been admirably treated by Francis Parkman in his series of volumes entitled "England and France in North America." See particularly *La Salle and the Discovery of the Great West* and *Montcalm and Wolfe*.

west and south and discovered the Mississippi River. This they did as early as 1672. The King of France now asserted a right to the great valley drained by the Mississippi, and so to the State of Ohio, which lies within the two systems of waters.

7. The French Excluded From Ohio.—But there were good reasons why the French, for a long time, did not take possession of, or even explore, the country that lies between Lake Erie and the Ohio River. The powerful Indian confederacy known as the Iroquois, occupying Central and Western New York, controlled the southern shores of Lakes Ontario and Erie and Niagara River, and so commanded all the approaches to the Upper Ohio. In fact, their war parties ranged far to the west and south, and the Confederacy claimed as its own much of the region south of the Great Lakes. The Iroquois were the deadly enemies of the French, and more than once they seemed on the point of destroying all their settlements in Canada. So the French, in pushing their explorations in the Northwest, did not at first ascend the St. Lawrence and the Lower Lakes, but rather kept far to the north out of harm's way. This they did by ascending the Ottawa River, which enters the St. Lawrence just above Montreal, and then descending the waters beyond to Georgian Bay. Besides, this gave them a much shorter route than the one by the Upper St. Lawrence and the Lower Lakes. These facts explain how it was that the French reached the Mississippi by the Wisconsin and the Illinois, and not by the Ohio. They also explain how it was that the French were almost wholly ignorant of the country between Lake

Erie and the Ohio River long after they had quite fully explored and mapped much of Michigan and Indiana, Illinois, Wisconsin, and Minnesota. Michigan, the French reached by the Ottawa River, Georgian Bay, and Lake Huron, and Indiana by Lake Michigan; thus coming in, as it were, by the back door instead of the front one.

8. Other Discoveries.—There is indeed a report that La Salle, the great French explorer, coming from the head of Lake Ontario, crossed to the Upper Ohio and descended that stream as far as Louisville, Kentucky, in the winter of 1669-70, but the report is somewhat doubtful. English and Dutch traders of New York sometimes made their way into the region of the Lakes, but they added nothing to the current knowledge of the country. There are also stories of Virginians crossing the mountains and reaching the Ohio at an early day, but these stories are even more doubtful than the story about La Salle. None of these explorations, if such there were, left any permanent trace in history. The only reports of the Great West that reached the world were those made by the French; and these, down to the middle of the eighteenth century, said little about Ohio.¹

9. French Policy.—The French promptly took possession of the vast regions in the West that they had discovered. They planted their establishments,

¹ The maps of the Ohio region made previous to the French and Indian War show how little was known about it. Some times the Ohio and the Wabash are one stream flowing nearly east and west, thus nearly obliterating Ohio. Evans and Mitchell, whose maps were published in 1755, give Lake Erie an almost due east and west direction.

which were fortifications, trading posts, and missionary stations all in one, at the most desirable points on the lakes and rivers, as the Sault Ste. Marie, Mackinaw, St. Esprit, Green Bay, Kaskaskia, Peoria, Vincennes, and Detroit. They also took possession of the mouth of the Mississippi River and built New Orleans. The plan was to bind together the mouths of the two great rivers of New France, as the French called their possessions in North America, by chains of settlements and posts that should ascend the Mississippi from the Gulf, and then branch off from that stream to the Great Lakes and their outlet, by the way of the Ohio and Wabash, the Illinois and Chicago, and the Wisconsin and Fox Rivers. This plan, if executed, would shut the thirteen English colonies up in the narrow strip of the continent lying between the Appalachian Mountains and the sea, and thus effectually prevent their territorial expansion.

10. The Movement of Events.—The time finally came when the French must either enter the Ohio Valley or see it snatched from them. The English colonists, and particularly the Pennsylvanians and Virginians, who had long been making their way up the valleys to the sources of the streams flowing into the Atlantic Ocean, were now ready to scale the ridges of the mountains and plant themselves on the Upper Ohio and its tributaries. This was the state of things at the close of King George's War, in 1748. By this time, too, the Iroquois had been greatly weakened by their long struggle with the French, while the strength of Canada had much increased. Galissonnière, the Governor of Canada, was quick to see the situa-

tion, and prompt to take steps to protect the interests of his royal master, the King of France.

11. Bienville and Gist in Ohio.—In 1749 Galissonière sent a French officer by the name of Bienville de Céloron, with a small company, into the Upper Ohio Valley, instructing him to take formal possession of the country in the name of the King of France, to make friends with the Indians, and to do whatever he could to exclude the English. Bienville executed his commission, reporting to his superior on his return to Canada that he found many English traders in the country, and that the Indians were generally friendly to them. The next year the Ohio Company, which had been formed in Virginia to speculate in Western lands and to trade with the Western Indians, sent Christopher Gist, a veteran woodsman from North Carolina, into the valley to report on the country and to look out desirable lands. Gist reported to the Company that the Indians were generally friendly to the English and unfriendly to the French; he also gave a glowing report on the country itself, which is the first account of Southern Ohio ever made by an English hand.¹

12. The French Seize the Forks of the Ohio.—In 1750 the Western situation may be described as follows: The English and the French both claimed the country back of the Alleghanies; they were both ready to enter in and take possession, and each was the more eager to do so lest the other should get the advantage. The Thirteen Colonies were backed by

¹ See Christopher Gist's *Journals*, etc. By William M. Darlington, Pittsburg, 1893. This volume contains, besides Gist's journals, much other valuable historical information.

England, Canada was backed by France. In the years immediately following, attempts were made by England and France to settle the quarrel, but they were all unsuccessful. So in 1754 the Governor of Virginia sent a small military force to take possession of the forks of the Ohio, where the City of Pittsburg now stands; but before this force had completed the fortification that it was engaged in building, a much stronger force descended the Allegheny River, on which stream the French had already established themselves, captured both the force and the unfinished fortification, and proceeded to build a stronger work, which was named after the new French Governor, Ft. Duquesne.

13. The French and Indian War.—The French had no sooner established themselves at the forks of the Ohio than the Western Indians ranged themselves on their side. France was thus, for the time, put in full possession of the West. The long struggle called the French and Indian War now ensued. It was brought on by the contest for the Ohio Valley. The close of this struggle saw England completely victorious at all points; and the King of France was compelled, by a treaty signed in Paris in 1763, to surrender to England, not only Canada, but all his North American dominions east of the Mississippi River except the Island of New Orleans, which was ceded to Spain along with the western half of the Mississippi Valley. The French had made no use of Ohio except to plant two or three small posts within her limits.¹

¹ See Chap. VIII, Supplement, *The Military Posts, Forts, and Battlefields Within the State.*

14. The Mound Builders.—Scattered through the Western wilderness were ancient works that have excited a great deal of curious interest. In such works Ohio, and particularly the southern part of it, abounded; they might literally be counted by thousands. Collectively these works were called mounds, because they were generally built of earth and raised above the surface of the ground. They presented a great variety of forms and sizes, and had apparently been intended for quite different uses. Some were fortifications, some points of observation, some graves or cemeteries, and some, perhaps, places of worship. Some of the mounds were very extensive, as those found at Marietta, Portsmouth, Newark, and Circleville. Until recently it had been thought that they must have been constructed by some lost race, which was much superior to the North American Indians in the arts of life. This lost race were called the Mound Builders. The later opinion is that the real builders were Indians, but Indians in a more advanced state of society than the tribes that held Ohio at the time when this story opens. Whatever their origin, the mounds furnish an extremely interesting chapter in the history of the State.¹

¹ On the Mound Builders consult *The Mound Builders*, by J. P. MacLean, and *Primitive Man in Ohio*, by W. K. Moorehead.

CHAPTER III

THE PERIOD OF BRITISH DOMINATION

15. The King's Line.—The treaty of 1763 put England in possession of the Great West, including Ohio. Her old colonies now thought that the last barrier to their entering the Western country was broken down. But in October, 1763, the King issued a proclamation forbidding the governors of the colonies, and all others in authority, to grant any patents for land or warrants of survey west of the heads of the streams which flow into the Atlantic Ocean from the west and northwest; that is, west of the sources of the Susquehanna, the Potomac, the James, etc. This was a great disappointment. Several of the colonies claimed to extend west to the Mississippi, and there were, at the close of the war, many eager pioneers ready to enter the Western country and possess the land, Pennsylvanians and Marylanders, Virginians and Carolinians. The proclamation seemed to reveal a purpose to cut the Colonies short at the King's line, as the crooked line beyond the heads of the rivers was called. Unoccupied lands on the two sides of this line were now called colony lands and crown lands. The reason that the King gave for drawing his line was a purpose to secure the Indian tribes, for the time, in the undisturbed possession of the territories that they occupied as hunting grounds, in so far as they had not sold them to the King or the Colonies.

16. The Ohio Indians.—At the middle of the last century Ohio was in the full possession of various Indian tribes. The Mingos, a tribe that was first composed of fragments of various other tribes, were in the southeast, between the Muskingum and Ohio Rivers; the Wyandots were in the northwest, extending into the central part of the State; the Shawanees were in the south-central part, on both sides of the Scioto River; the Miamis were found in the southwest, occupying the valleys of the two Miami Rivers. Members of many other tribes were dispersed among these, as Delawares, Ottawas, and Chippewas. The earlier history of these tribes, and their relations at the time to the Iroquois of New York, are involved in much obscurity. All told, the Ohio tribes numbered perhaps two thousand warriors. They were all in the savage state of society, obtaining their living by hunting, fishing, and a rude cultivation of the soil.

17. Preference of the Indians for the French.—The Indians of the West and Northwest took much more kindly to the Frenchman than they did to the Englishman. The Frenchman was not aggressive, but social; he accommodated himself to the Indian mode of life; he wanted to buy the Indians' furs, but he did not want to appropriate to himself all their lands. The Englishman, on the other hand, was aggressive and distant; he wanted to buy furs, to be sure, but he was more anxious to convert the hunting and trapping grounds into farms and plantations. The Western Indians had a peculiar hatred for the Virginians, whom they called the Long-Knives. The Indians were inconstant in their friendships; sometimes

they turned to the English, as when they sold cheaper goods and paid more for skins than the French; but, as a rule, their hearts were with the Frenchmen of the North rather than with the Englishmen of the East. It was not strange, therefore, that the Western Indians sided with the French in the war of 1754-1763, which takes its name from this fact.

18. The Beginning of Indian Wars in the West.—The French and Indian War was the first of the series of Indian wars that constitute so large a part of the story that has been called “The Winning of the West.”¹ These wars lasted, with intervals of peace, for forty years. The long struggle is a story of thrilling interest, embracing the destruction of farms, the burning of towns, the ambuscading of war, emigrant, and trading parties, the torture of captives by the Indians, and the bloody retaliation made by the whites. It was the period of the famous Indian fighters, such men as Boone, Wetzel, and Kenton. It was, in fact, an irrepressible conflict. The Western whites were determined to cut farms for themselves out of the Western wilderness; the Indians were equally determined to preserve the wilderness for themselves. Ohio was a beautiful region; the Indians were ardently attached to it, and made the most determined efforts to keep it in their possession. For no part of the United States has the Red man waged a more desperate warfare than he waged for Ohio. It was the first stand that the Western Indian made against the White man.

¹ See Mr. Theodore Roosevelt's valuable work bearing that title, of which four volumes have been published.

19. Pontiac's Conspiracy.—The submission of the French in 1763 did not include their Indian allies, whose power was still unbroken. The Indians saw that the invasion of their country by the English had only just begun, unless they were driven back upon the seacoast. The truth is that while the King's proclamation of 1763 retarded emigration for a time, it did not prevent it. From the far South to the far North emigrants soon began to cross the mountains separating the Eastern and the Western waters, and establish themselves in the Great West. What was coming no one saw more clearly than Pontiac, a celebrated Ottawa chief, who organized, at the close of the French and Indian War, one of the most formidable Indian combinations against the whites ever formed. In the course of the war that resulted, many detached posts fell into the hands of the Savages, as Sandusky, Erie, and Mackinaw; but Pontiac failed to reduce Detroit and was finally foiled altogether in his grand purpose. He made his submission in 1766, and this event gave the frontier a brief respite of peace.

In the course of this war, in the autumn of 1764, Col. Henry Bouquet led an army from Pennsylvania into Ohio as far as the Tuscarawas River, where he compelled the Indians to consent to peace and surrender all the prisoners, hundreds in number, that they had taken from the whites in the course of years.¹ General Bradstreet also, in command of a force that ascended Lake Erie to Detroit, visited Sandusky and touched at other points on the southern shore of the

¹ Howe's *Historical Collections of Ohio*, Vol. I., pp. 472-479.

lake. These armies were the first English-speaking men in large numbers that visited the soil of Ohio.¹

20. Lord Dunmore's War.—Many of the whites who established themselves in Western Virginia and Pennsylvania, as well as many of the hunters and traders who pushed into the Ohio wilderness, were men of bad character. They were not merely indifferent to the welfare of the Indians, but were positively hostile to them. Some of these men acted upon the motto heard in later times, "The only good Indian is a dead Indian." Shameless outrages were perpetrated upon the Indians; they were cheated, despoiled of their lands, and often brutally murdered. The savage warriors retaliated according to their well-known methods, the Shawanees taking the lead. In 1771, 1772, 1773 efforts were made to unite all the Western tribes in a general war of extermination against the whites west of the mountains. One of the worst outrages perpetrated upon the Indians was the massacre of the family of the celebrated Mingo chief Logan, on the Upper Ohio, in the summer of 1774. This act prompted stern revenge, and this revenge again was an important cause of the expedition that Lord Dunmore, Governor of Virginia, led against the Ohio Indians in the autumn of that year. The Shawanees, Delawares, and Mingo, commanded by the great Shawanee chief Cornstalk, attacked one division of Dunmore's army under General Lewis at Point Pleasant, West Virginia, at the junction of the Ohio and Kanawha Rivers, but was repulsed. Dunmore pushed into Ohio as far as Sippo Creek, a

¹ See Mr. Parkman's *The Conspiracy of Pontiac*.

branch of the Scioto, where, near the line of Ross and Pickaway Counties, he made a fortified camp called Camp Charlotte. Here he concluded a so-called treaty with the Indians, but hostilities were soon resumed in full vigor.¹

21. The Quebec Act.—In the years 1763-1775 several attempts were made to found new colonies in the Back Country, as the Virginians called the West. None of them were successful. In 1774 the English Parliament passed the Quebec Act, which annexed the whole country west of Pennsylvania, bounded by the Ohio, the Lakes, and the Mississippi, to the Province of Quebec. There were then a few French villages containing a few thousand people in Michigan, Indiana, Illinois, and Wisconsin, sometimes called the *Habitans*, who had been without any form of civil government since the English conquest, but had been subject to the British military authorities; and one object of the Quebec Act was to furnish such a government. It included Ohio, but had no immediate application to that region, for the very good reason that Ohio then contained no permanent white population. The country was included in Quebec because it was geographically convenient to do so, and because, apparently, it was the purpose of the British Government to connect its future political destinies with Canada rather than with the old English colonies. At any rate, this was the second time that Ohio had been made a part of Canada.

This act was very obnoxious to the people of the old colonies, several of which were directly interested

¹ Howe's *Historical Collections of Ohio*, Vol. II., pp. 404-411.

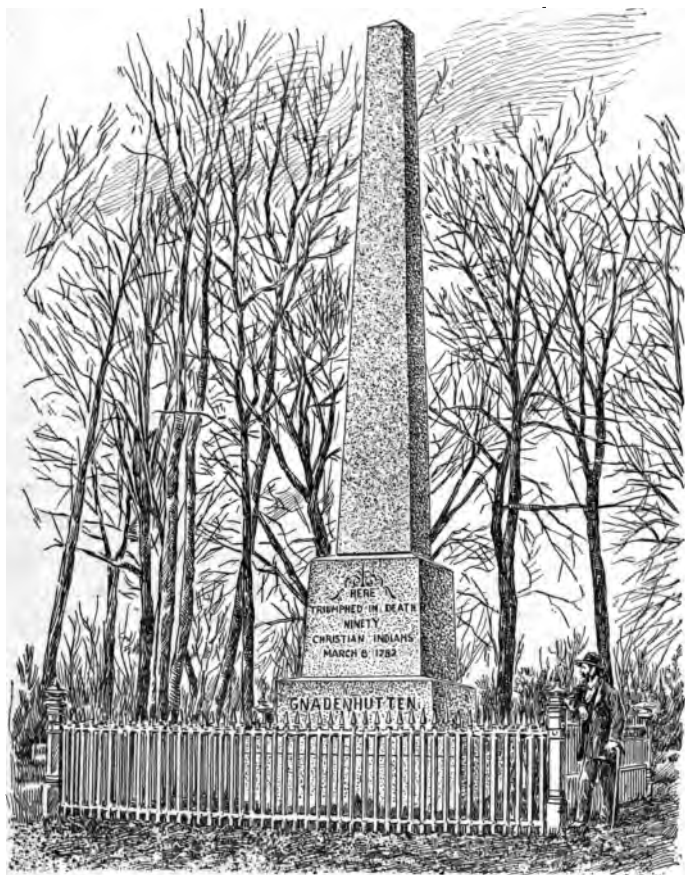
in Western lands, while none of the colonies wished to see the future development of the West connected with the St. Lawrence Valley rather than with the Atlantic Slope. Accordingly, the Declaration of Independence, put forth two years later, mentioned the Quebec Act as one of the causes of the War of Independence.

22. The Revolution.—The French and Indian War decided that the rulers of the West should not be French, but English. It did not decide, however, that they should also be British. From the time that the British dominion was established, causes were at work which threatened to subvert it. These were the causes that brought on, in 1775, the Revolutionary War. The destiny of the whole West was involved in this struggle. If the Colonies should fail, England would retain the West as a matter of course; if the Colonies should succeed, the West might still remain attached to Canada, but that was not certain: it would be a question of boundaries. As usual, the Western Indians sided with the masters of Canada. The first result was the immediate renewal of the border warfare, from New York to Georgia. This warfare was encouraged in every way by the British commander at Detroit, who furnished Indian war parties with all needed material for their bloody forays upon the settlements of Pennsylvania, Virginia, and Kentucky—guns and powder and ball—and sometimes officers to lead them as well. The Western pioneers retaliated in kind, frequently organizing expeditions that marched into the heart of the Indian country with fire and sword.

23. The Tuscarawas Massacre.—The body of zealous Christians called the Moravians originated in Moravia, in Europe. They were devoted to education and missions to the heathen. A colony of Moravians was founded at Bethlehem, Pa., on the Lehigh River, about the middle of the last century, and from this place some of them made their way by slow stages deep into the wilderness of Ohio. Here, the devoted Zeisberger and Heckewelder¹ established themselves on the Tuscarawas River, near the present town of New Philadelphia, and began to labor for the conversion of the Delaware Indians. In a short time they collected three villages of Christian Indians, named Shönbrun, Gnadenhütten, and Salem. Here Mary Heckewelder, daughter of the missionary, was born, April 16, 1781, called the first white child born in Ohio. In the Revolutionary War the position of these Indians was most unfortunate. For no fault of their own they fell under the suspicion both of the Americans on the Ohio and of the British at Detroit. While they strove to keep strictly neutral, each side charged them with inclining to the other. Toward the close of 1781 they were compelled to leave their homes, in order to give an account of themselves at Detroit. They spent the winter following at Sandusky. Towards the close of the winter, being in a starving condition, about 100 of them returned to their villages on the Tuscarawas to gather some of the corn that had been left unharvested in the fields the year before. Just as they were on the point of setting

¹Heckewelder made one of the first maps of Northeastern Ohio. See *The Magazine of Western History*, Vol. I., pp. 109-114.

out again for Sandusky, in the month of March, 1782, Col. David Williamson, commanding a force of reck-



GNADENHÜTTEN MONUMENT.

less men from the Upper Ohio, fell upon them at Gnadenhütten, and, having first deprived them of all

means of resistance, and shut them up in two houses, slaughtered ninety men, women, and children without mercy. This massacre, which was wholly without excuse, and for which nobody was ever punished, was one of the most tragical events in the history of the State. A monument to the memory of the ninety Christian Indians, standing on the spot of the massacre, was dedicated in 1872. In 1798 Zeisberger, with a company of converted Indians, returned and founded Goshen, near Gnadenhütten, and here he died in 1808.¹

24. The Death of Colonel Crawford.—In May, 1792, a strong force was mustered on the Ohio to complete the destruction of the Christian Indians, and to destroy the towns of the Wyandots in the northwestern part of the State. This force marched to the Sandusky plains, but found no Indians, because they took care to conceal themselves from sight. Compelled to retreat, the expedition fell into confusion, and the commander, Colonel William Crawford, once the agent and friend of Washington, with some others, was taken prisoner. Enraged at the butchery of their tribesmen on the Tuscarawas, the Delaware Indians burned



CRAWFORD MONUMENT.

¹ Howe's *Historical Collections of Ohio*, Vol. III., pp. 368-378.

Crawford at the stake with the most horrible tortures. He had had nothing to do with the massacre, but the Indians compelled him to suffer for the foul deed done by Williamson. The scene of Crawford's execution was the Delaware Town on Tymochte Creek, a few miles west of Upper Sandusky, in Wyandot County. A monument to Crawford stands at a little distance from the spot.¹

25. George Rogers Clark.—George Rogers Clark, a Virginian who had made his home in Kentucky, obtained from Patrick Henry, Governor of Virginia, a commission that authorized him to organize an expedition on the Ohio to seize the old French towns in Illinois and Indiana, which were in British hands. Clark collected his force at the Falls of the Ohio, now Louisville, Ky., descended the river as far as suited his purpose, and then struck across the country to Kaskaskia, on the river of that name, not far below St. Louis. This town, and the other towns in the neighborhood, at once fell into his hands without resistance. Soon afterwards he captured Vincennes, on the Wabash, in Indiana. This was in 1778-79. The British commander at Detroit attempted to regain these posts, but was himself taken prisoner, and the posts remained in American hands at the close of the war. In honor of this exploit Clark has been called the Hannibal of the West. He made one or more efforts to raise a command on the Ohio to march against Detroit, but without success. This conquest was made and kept under conditions of great difficulty,

¹ Howe's *Historical Collections of Ohio*, Vol. III., pp. 558-596.

and it ranks among the most brilliant exploits of the Revolution.¹

26. The Treaty of 1783.—At last England was compelled to acknowledge the independence of the Thirteen States. When the time came to negotiate the treaty, the disposition to be made of the West was hotly debated. England was anxious to retain it in her possession. Spain also, which had owned the western half of the Mississippi Valley since 1763, desired to keep the United States back from the Mississippi and to possess herself of the eastern bank of the river. France supported the pretensions of Spain. France had been our ally in the war against England, and Spain had been the ally of France. The general peace now to be concluded therefore involved these powers as well as the United States. The situation at Paris, where the negotiations were carried on, was a critical one indeed. But Franklin, Adams, and Jay, the American commissioners, stood firm, and at last succeeded in obtaining the natural boundaries of the country at that time. In the Northwest and West these boundaries were the following: A line running through the middle of the Great Lakes and the connecting waters from the foot of Lake Ontario to the head of Lake of the Woods, and a line running through the middle of the Mississippi from its source to the 31st parallel of north latitude. This act settled the destiny of the Great West; settled that it would not be a dependency of Canada, but an integral part of the American Union; settled also that the western half of the

¹ See *The Conquest of the Country Northwest of the River Ohio*, etc., by W. H. English.

Mississippi Valley would, in time, be a part of that Union.

NOTE.—Mention has been made of Logan.¹ This chief refused to sue to Lord Dunmore for peace, but sent to him, it is said, as a token that he was willing peace should be concluded, the celebrated speech which, Mr. Jefferson has said, "rivals the whole orations of Demosthenes and Cicero." This speech is as follows, as given by Mr. Jefferson:

I appeal to any white man to say, if he ever entered Logan's cabin hungry, and he gave him not meat; if ever he came cold and naked, and he clothed him not. During the course of the last long and bloody war Logan remained idle in his cabin, an advocate for peace. Such was my love for the whites, that my countrymen pointed as they passed, and said, "Logan is the friend of white men." I had even thought to have lived with you, but for the injuries of one man. Colonel Cresap, the last spring, in cold blood, and unprovoked, murdered all the relations of Logan, not even sparing my women and children. There runs not a drop of my blood in the veins of any living creature. This called on me for revenge. I have sought it; I have killed many: I have fully glutted my vengeance: for my country I rejoice at the beams of peace. But do not harbor a thought that mine is the joy of fear. Logan never felt fear. He will not turn on his heel to save his life. Who is there to mourn for Logan? Not one.

¹For an account of Logan, see Howe's *Historical Collections of Ohio*, Vol. II., pp. 247-252.

CHAPTER IV.

ORGANIZATION OF THE NORTHWEST TERRITORY.¹

27. Ownership of the Northwest.—The Revolution brought to the front a new question pertaining to the West that proved to be very troublesome. This was the ownership of the Western country. The fact is this country had three different sets of owners, but in three different senses of the word. These will now be explained.

1. The West belonged to the United States; that is, it was a part of the country bearing that name, and, in a general way, was subject to its political jurisdiction. However, the National Government did not claim a property right in the Western lands.

2. Seven of the States together claimed the whole West as belonging to them. Massachusetts claimed a wide belt running across Central Michigan and Southern Wisconsin; Connecticut, a belt extending from Pennsylvania westward across Northern Ohio, Indiana, and Illinois, and Southern Michigan to the Mississippi, and New York the country south of Lake Erie as far as the Cumberland Mountains. Virginia said she owned, not only Kentucky, but the whole Northwest. North Carolina, South Carolina, and Georgia all claimed the lands lying at their backs extending to the Mississippi. These claims rested mainly on the old

¹See Hinsdale's *The Old Northwest*, Chaps. XI., XII., XIII., XIV., XV., for full treatment of the subjects covered by this chapter.

charters granted by the kings of England in Colonial days, but partly also on Indian treaties. Some of the claims, it will be seen, overlapped. Both New York and Virginia, for example, claimed Ohio, while Connecticut also asserted a right to the northern part of the State. The seven States, sometimes called the Claimant States, held that the wild lands belonged to them as property, and also the right of government, subject to the Government of the United States.

3. The Indians, however, were in actual possession of the Western soil, and denied the claims both of the United States and of the seven States. They were the original owners of the country. In a certain sense, both the United States and the States acknowledged the Indian claim. They admitted that the Indians had a right to live and hunt in the country until they should see fit to sell it, or portions of it, to the National Government or the State Governments. In other words, the Indians had a modified property right in the lands, but they could dispose of this right only to the United States or a State.¹

¹ The subject-matter of the topic treated above is peculiarly difficult of explanation to pupils. The terms "own," "belongs to," "sell," "cede," etc., are ambiguous. It is important that the teacher should explain the different senses of these words as clearly as possible. In general, the phrase "belongs to" expresses two ideas—one is the right of ownership, and the other the right of political jurisdiction. The phrase "political jurisdiction" again is also used in two or more senses. Perhaps an exercise like the following will make the matter plain:

John Doe's farm *belongs to* John Doe; that is, it is his property by purchase, gift, or inheritance; he has a deed for it, and can, subject to the law, dispose of it as he pleases. This farm also *belongs to* — township, but in a different sense; the township does not own it as property, but it is in the township and is subject to the township

28. The Northwestern Cessions.—The six non-claimant States denied that the claimant States had any exclusive rights in the Western country. They said that the old charters were worthless, and that the lands were in the possession of the British, the common enemy, and must be wrested from them by the common effort. They contended, therefore, that the lands should become the common property of the Nation. In course of time, the claimant States were constrained to admit the reasonableness of this view, and to cede their claims, for the most part, to the United States. Thus, New York was cut short as at present; Virginia gave up her claims to the country beyond the Ohio, and the New England States followed their examples. The dates of the deeds of cession are as follows: New York, 1781; Virginia, 1784; Massachusetts, 1785; Connecticut, 1786. These cessions put an end to much bitterness of feeling, strengthened the union of the States, and gave to the Nation a vast

government. Again the farm *belongs to* — county, the State of Ohio, and the United States, in a sense like that in which it belongs to — township. It is in the county, State, and Nation, and is subject to their several jurisdictions. In other words, the township, county, etc., each exercises government over this farm for its own purposes. The constable, the sheriff, and the marshal may each make arrests or perform other official acts appropriate to his office on that farm. The phrase, then, is used in either one of two distinct senses, the property sense or the jurisdictional sense. But the farm may *belong to* the township, county, etc., in both senses; that is, the township or other jurisdiction may buy it for its own use and purposes, in addition to exercising political control over it. Thus, the court house and jail *belong to* the county as property, the State House or Capitol to the State. In a jurisdictional sense again, the township *belongs to* the county, State and Nation, the county to the State, and Nation, and the State to the Nation or Union.

body of public lands. The cessions covered jurisdiction, or governmental rights, and also the soil as property, except that Virginia and Connecticut made certain reservations that will be explained hereafter. These lands were the beginning of the Public Domain, as the unoccupied lands belonging to the Nation are called.

29. The Promise of New States.—In October, 1780, the Continental Congress declared by resolution that the unappropriated lands that might be ceded to the United States by particular States should be disposed of for the common benefit, and should be settled and formed into separate republican States to be admitted to the Federal Union on an equality with the old States. The new States should be so formed as to contain a suitable extent of territory, and the lands should be disposed of in such way as Congress might adopt. It was with this understanding that the cessions were made, and Virginia took pains to incorporate the pledge of Congress in her deed of cession. Without this understanding the cessions, or some of them at least, would not at that time have been made.

30. Indian Treaties.—The cessions just described still left the United States to deal with the question of Indian ownership. In 1768, by a treaty made at Ft. Stanwix, in New York, the Iroquois tribes had surrendered to the King of England all their right and title to the country east and south of the Ohio, as far as the Tennessee River, not including Pennsylvania. In 1784, by a treaty also made at Ft. Stanwix, the Iroquois surrendered to the United States all their right and title to lands beyond the Ohio. These

treaties, however, did not bind the Western Indians, who were actually in possession of the Western country. In 1785 commissioners of the Government negotiated with sachems and warriors of the Wyandots, Delawares, Chippewas, and Ottawas its first treaty with these Indians. It is called the Treaty of Ft. McIntosh, from the place where it was made, a small fortification at the mouth of the Big Beaver River, on the Ohio. The Indian signers of the treaty agreed to cede to the United States all the lands south and east of the Cuyahoga River, the portage path between that river and the Tuscarawas, the Tuscarawas as far south as Ft. Laurens,¹ near the south line of Stark County, a line drawn from this point to the portage between the heads of the Big Miami and the Auglaize Rivers, and down the Auglaize and Maumee Rivers to Lake Erie. Within these lines the Indians should still occupy the country; beyond them they surrendered the lands so far as the said Indians formerly claimed them. This treaty was afterwards reaffirmed at Ft. Harmar, in 1789, but the Ohio tribes as a whole denied its validity.

31. The Ordinance of 1784.—While the Revolutionary War was still in progress, the formation of a new State west of the Ohio began to attract attention. The subject interested many officers in the army, some of whom had given up everything to serve the country, and would be at the close of the war without home or

¹ Ft. Laurens (sometimes called Lawrence) was built in 1778 by an armed force from Pittsburg, but was abandoned the next year. See Howe's *Historical Collections of Ohio*, Vol. III., pp. 379-380. Ft. Laurens was an important landmark in dealings with the Indians.

occupation. In June, 1783, as many as 285 officers petitioned Congress to set off the tract of land lying between the Ohio River and Lake Erie, and extending from Pennsylvania westward to a meridian line 24 miles west of the mouth of the Scioto, for a new State. It was proposed that such soldiers as should unite to form the new State, who were entitled to bounty lands, should be permitted to locate them in this tract. Congress never acted upon the petition. Washington, in his final order to the army, cheered his companions in arms with the words: "The extensive and fertile regions of the West will yield a most happy asylum to those who, fond of domestic enjoyment, are seeking for personal independence." Such was the growing interest in the Northwest that Congress, in April, 1784, adopted an ordinance for its temporary government. This ordinance never went into operation, and is remembered now principally because it was drawn up by a committee of which Mr. Jefferson was chairman.

32. The Land Ordinance of 1785.—In May, 1785, Congress passed an ordinance for ascertaining the mode of disposing of the lands in the Western territory, limiting its application to such lands as had both been ceded by individual States and purchased of the Indians. This ordinance created a corps of surveyors to survey such lands as had been so acquired, under the direction of the Geographer of the United States. It directed that the lands should be surveyed into townships six miles square, bounded by due east and west and north and south lines, crossing at right angles. The ranges of townships should be numbered

1, 2, 3, etc., from the Pennsylvania line westward, and the townships in the ranges 1, 2, 3, etc., from the Ohio River northward. Furthermore, the townships should be cut up into lots of one mile square each, numbered from 1 to 36, beginning in the southeast corner and running north to 6; then beginning the next range with 7 and running to 12, etc. The lines were to be suitably marked; plats should be duly made and recorded at the seat of government; and the lands surveyed should be sold according to certain rules which were prescribed. Congress reserved the lot No. 16 in every township for the maintenance of schools. The Ordinance of 1785 is a document of much interest; it contains the leading features of the system according to which the public lands have been surveyed from that day to this. Under this Ordinance, Congress made its first surveys in 1786.¹

33. The Ohio Company of Associates.—The white population west of the mountains continued to increase in Pennsylvania, Virginia, and Kentucky. Traders and hunters and some squatters entered Ohio; but there were yet no permanent, or at least lawful, settlers on the right bank of the river west of the Pennsylvania line. The first step pointing in that direction was taken in March, 1786. This was the formation in Boston of the Ohio Company of Associates, composed mainly but not exclusively of New England men who had served in the Revolutionary army. The purpose of this Company was to raise funds to be used in purchasing of Congress a tract of Western lands for the benefit of the Company, and to

¹ See Chapter VII., paragraphs 68, 78 and *Note*.

promote its settlement. The directors sent Dr. Manasseh Cutler, of Ipswich, Mass., to New York, where Congress was then sitting, to negotiate the purchase. The time was favorable, for Congress was then considering the subject of a Northwestern Government, and was, moreover, anxious to sell lands for the double purpose of promoting settlements and reducing the National debt. In July following Congress did two notable things. One of these was the passage, on the 13th of the month, of the Ordinance for the Government of the Territory of the United States Northwest of the River Ohio. The other was a sale of lands. The Ordinance will be treated under several heads.

34. Sections I. and II. of the Ordinance of 1787.—The first section of the Ordinance constituted the Territory one district for temporary government, but reserved to Congress the right to divide it into two districts. Section II. ordained that the landed estates of persons dying intestate should be divided among the children of the deceased, or, if there were none, then among the next in kin, in equal shares.

35. The Government Provided by the Ordinance.—Sections III.-XII., inclusive, constituted the government of the Territory. Congress should appoint a governor for three years, a secretary for four years, and three judges for good behavior. Until the number of free male inhabitants of full age in the district should reach 5,000, the Governor and the Judges should constitute the Legislature. The Legislature was not empowered to make new laws, but it might select such laws, civil and criminal, from the statute books

of the original States as it deemed necessary and best suited to the wants of the people. Congress, however, should have the power of veto upon all such legislation. The Governor should be commander-in-chief of the militia, and should appoint and commission all officers below the rank of general officers. He should appoint such magistrates and other civil officers in counties and townships as he deemed necessary. The Secretary should keep the records of the Territory. Any two of the Judges could form a court having a common law jurisdiction. When the prescribed number of male citizens of full age was reached, a new legislature should be constituted, consisting of the Governor, a Council, and a House of Representatives. The Representatives should be chosen by the freeholders of the district owning fifty acres of land or upwards in the district, who had been citizens of one of the States and resided in the Territory, or of freeholders owning the same quantity of land who had resided two years in the Territory. The House of Representatives should nominate ten candidates from whom Congress should select five to constitute the Council. The Legislature should elect a delegate to represent the Territory in Congress. All officers should reside in the Territory and be freeholders. The Governor must own 1,000 acres of land, the Secretary and members of the Council 500 acres each, Representatives 200 acres each.

36. The Compacts of the Ordinance.—The Ordinance embraced six articles of compact between the original States and the people and States to be made out of the Territory, forever unalterable, except by common consent. Article I. said no person who de-

meant himself peaceably should be molested on account of his religion. Article II. guaranteed the right of the writ of habeas corpus, trial by jury, proportional representation, and the privileges of the common law. Article III. contained the well-known words, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Article IV. said the Territory and the States to be formed out of it should forever remain a part of the United States and subject to its laws. The navigable waters of the Territory and the portages between them should forever be common highways, free to all inhabitants, and to all citizens of the United States, without tax, impost, or duty. Article VI. provided for dividing the Territory into States, not more than five nor less than three, and drew their boundary lines, subject to future changes that Congress might make. A population of 60,000 should entitle any one of these States to be admitted to the Union on an equal footing with the old States. Article VI. also dedicated the Northwest to freedom forever, in these memorable words: "There shall be neither slavery nor involuntary servitude in the said Territory otherwise than in the punishment of crime, whereof the parties shall have been duly convicted." But slaves escaping into the Territory from one of the original States might be captured and carried back into slavery.

37. Future Boundaries of States.—The Ordinance declared that not less than three, nor more than five, States should be formed out of the Territory. If three, they would run throughout the Territory from

north to south; if five, they would lie in two tiers, one above the other. One line should be drawn from the mouth of the Big Miami River due north to the International boundary line; a second should ascend the Wabash to Vincennes, and then proceed due north as before. If there were three States, one should lie between the Pennsylvania boundary and the Miami line, one between the Miami and Wabash lines, and the third between the Wabash line and the Mississippi. If there were four or five, then the extra State or States, as the case might be, should be formed north of a due east and west line drawn through the southern bend or extreme of Lake Michigan. Congress reserved the right to determine whether the number should be three or five.

38. Eulogies of the Ordinance of 1787.—Few acts of legislation have been more praised than the Ordinance for the Government of the Northwest Territory. Two or three will be quoted. Daniel Webster: "We are accustomed to praise the law-givers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any law-giver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the Ordinance of 1787. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow." Judge Timothy Walker: "It approaches as nearly to possible perfection as anything that could be found in the legislation of mankind; for after the experience of fifty years it would perhaps be impossible to alter without marring it. In short, it is one of those matchless specimens of sagacious forecast

which even the reckless spirit of innovation would not venture to assail." Chief Justice Chase said the Ordinance "had been well described as having been a pillar of cloud by day and of fire by night in the settlement and government of the Northwestern States." The Ordinance marks an epoch in the history of the United States, as well as in the history of Ohio. It was more than a law or statute; it was a constitution for the whole Northwest; more than this, it became a model for much subsequent legislation in respect to the Territories, while the prohibition of slavery is one of the great precedents of our National history.

39. Land Purchase of the Ohio Company.—On July 27, 1787, Congress sold to the Ohio Company of Associates a tract of land on the north side of the Ohio River, bounded on the east by the seventh range of township surveyed in 1786, north by a line drawn due west from the northern boundary of the tenth township in said range to the Scioto River, and west by the Scioto. The price for the tract should not be less than \$1 per acre, not including certain reservations and allowances to be made for bad lands. Lot No. 16 in every township was given perpetually for the use of common schools; lot No. 29 was set apart for religious purposes; lots 8, 11, and 26 were reserved to be disposed of as Congress should direct; while two townships near the center of the tract were appropriated to a university. The Company agreed that it would within seven years survey the tract according to the plan laid down in the Land Ordinance of 1785. Only a small part of this tract ever came into the possession of the Company. In fact, the major part of it was in-

tended for the Scioto Company, which proved unable to meet its engagements. The amount of land actually presented to the Associates was a little over 1,000,000 acres, not including reservations. The location was the more attractive because Ft. Harmar, with a garrison of United States troops, had been established at the mouth of the Muskingum River, on the west side, a year or two before.

It has been well said that the Ordinance of 1787 and the Ohio Purchase were parts of one and the same transaction. "The purchase *would* not have been made without the Ordinance, and the Ordinance *could* not have been enacted except as an essential condition of the purchase." The meaning of this is, that the Ohio Company would not have bought the lands if the Ordinance, providing a good government for the settlers, had not been passed; and that Congress would not have passed the Ordinance, certainly at that time, if the sale of lands had not been made.

40. The Founding of Marietta.—The directors of the Ohio Company pressed their preparations for the new colony. The first division of colonists reached the Youghiogheny River, a branch of the Monongahela, in January, 1788; the second division, the month following. Here they built boats for descending the Ohio when navigation should open in the spring. On April 7, General Rufus Putnam, the most active man in the Company, and 47 others, reached the mouth of the Muskingum. The colonists began at once to fell trees, build houses, lay out the ground, and to erect a stockade as a protection against Indian attacks. The founders sought a name for the new town far removed

from the Western wilderness. They called it Marietta, taking the first two and last two syllables of the name of the unfortunate queen of France, Marie Antoinette. It was the first colony of English-speaking men northwest of the Ohio River. Before the close of the year the settlement had swelled to 132 persons. A majority of the settlers were from Massachusetts. Washington bestowed upon them this eulogy: "No colony in America was ever settled under such favorable auspices as that which has just commenced at the Muskingum. Information, property, and strength will be its characteristics. I know many of the leaders personally, and there were never men better calculated to promote the welfare of such a community."

CHAPTER V

HISTORY OF THE NORTHWEST TERRITORY.¹

41. The Institution of the Government.—Congress had already constituted the first government of the Territory. Arthur St. Clair, a Scotchman by birth and an American by adoption, had been chosen governor. Coming out to the Colonies as an officer in one of the British regiments in the French and Indian War, St.



SEAL OF NORTHWEST TERRITORY.

Clair had served with Wolfe at Quebec, in 1759, and at the close of the war made his home in one of the western counties of Pennsylvania. He served in the Continental army, attaining the rank of major-general, and was President of Congress when the Ordinance of 1787 was passed. To personal and official distinction he added

high abilities, character, and accomplishments. The Secretary, Winthrop Sargent, a Massachusetts man, was a soldier and a civilian, a member of learned societies and a poet. Judge Parsons was from Connecticut, Judge Varnum from Rhode Island; both were good soldiers and able lawyers. Judge Symmes, the third of the judges, was from New Jersey. Par-

¹ See Hinsdale's *The Old Northwest*. Chap. XVI.

sons and Varnum soon died, and their places were taken by General Rufus Putnam, mentioned in the last chapter, and George Turner, of North Carolina. Governor St. Clair reached the Muskingum July 9, 1788, and on the 15th of the same month civil government in the Territory was formally instituted. The judiciary, however, was not set in motion until September 2 following.

42. The Condition of the Territory.—The new Territory embraced more than a quarter of a million square miles of surface. Five great States have been carved out of it and a part of a sixth one.¹ Washed by the Great Lakes, the Ohio, and the Mississippi; coursed by numerous rivers and streams flowing to these larger bodies of water; abounding in forests and in prairies; rich in mineral wealth; containing an unusual proportion of arable lands of the greatest fertility; with a surface that invited public improvements, as the canal and the railway—the Territory offered a fit home to the great people that has come to possess it. For the time it was unoccupied, save by Indians and the *Habitans*, each of whom were only a few thousand in number. Governor St. Clair, who visited them in 1790, reported the *Habitans* extremely ignorant and

¹ The following table gives the names of these States, with the date of admission, the square miles of territory, and the population in 1890:

		Sq. Mi.	Pop.
OHIO.....	Feb. 19, 1803.....	40,760.....	3,672,316
INDIANA.....	Dec. 11, 1816.....	35,910.....	2,192,404
ILLINOIS.....	Dec. 3, 1818.....	56,000.....	3,826,351
MICHIGAN.....	Jan. 2, 1827.....	57,430.....	2,093,889
WISCONSIN.....	May 29, 1848.....	54,450.....	1,686,880
MINNESOTA.....	May 11, 1858.....	26,000.....	
Total.....		270,550	13,037,840

poor, but the gentlest and best disposed people that could be imagined. However, the new government had not been created for the decaying French settlements of Indiana and Illinois, but for the tide of emigration that was expected at once to flow into the Territory.

43. The First Settlements.—The story of Marietta has already been briefly told. The other settlements made the same year, 1788, were Columbia, at the mouth of the Little Miami, Losantiville, opposite the mouth of the Licking, and North Bend, at the great northern turn of the Ohio in the southwestern part of the State. These settlements were all in the Symmes Tract, lying between the two Miami Rivers.¹ Later settlements are mentioned in the chapter in which the historical divisions of the State are described. The absurd name Losantiville was soon changed for Cincinnati. The name was given by Governor St. Clair, in honor of the Society of the Cincinnati, founded by officers of the Revolutionary army at the close of the war. Connected with this settlement is a bit of romance that may be related. Judge Symmes, the principal purchaser of the tract, had made his home at North Bend, and the troops detailed to protect the settlers were first stationed at that point. But the officer commanding the troops became enamored of the handsome wife of one of the settlers. The jealous husband accordingly removed his habitation to Cincinnati. Not to be outwitted in this way, the officer promptly removed the troops to that place. This removal resulted in the building of Ft. Washington at

¹ See Chap. VII., paragraph 70.

Cincinnati rather than at North Bend, which gave the former town a decided advantage over all its competitors. Ft. Washington was for many years an important military post.

44. The First Legislation.—It will be remembered that the Ordinance made the Governor and Judges the first Legislature of the Territory. Soon these legislators set to work to supply the needed laws. They had no power to enact original legislation, but only to select such laws from the statute books of the original States as they thought necessary and fit for the condition of the people. Much difficulty was encountered in finding laws that suited the purpose, and the Legislature sometimes exceeded its powers by framing original laws. Still, these laws continued in force, like the others, until they were set aside by Congress. Speaking of the system of legislation that was provided, Chief Justice Chase said that, while it had many imperfections and blemishes, it was doubtful whether any colony at so early a period after its establishment ever had one so good. There was at first no Territorial capital; the Governor commonly resided at Cincinnati, while laws were promulgated at different times at Marietta, Cincinnati, and Vincennes. Differences of opinion soon arose in the Legislature. The Governor held that he had an absolute veto on all legislation; the Judges maintained that he was only one member of the body, and that a majority could legislate. But this was not the only question on which they differed.

45. The First Counties.—The Governor had the power to create counties and townships, and to ap-

point local magistrates, as circumstances rendered necessary. He first created Washington County, with Marietta as the county seat. Here the first court sat September 2, 1788. Hamilton County was formed in 1790, Adams and Jefferson in 1797, Ross in 1798, Trumbull in 1800. The first counties were very large. Washington embraced the eastern half of Ohio, St. Clair the southern half of Illinois, Wayne (with Detroit as the county seat, established in 1796) the most of Michigan, and considerable parts of Ohio, Indiana, Illinois, and Wisconsin. The right to form counties was also the subject of dispute between St. Clair and the Judges.

46. Character of Local Institutions Established.—In selecting the laws the Governor and Judges naturally drew upon those States with which they were most familiar. They made large use of the laws of Pennsylvania and Virginia, and some use of those of Massachusetts. In different groups of the old States different methods of local government prevailed then, as they do now. New England used the town (or township) for most local purposes, and the Southern States the county, while the Middle States combined the features of the two other systems. These are known as the Town, the County, and the Mixed systems of local government. The Governor and Judges introduced the mixed system into the Northwest, where it has continued until the present time. It has, however, been more or less modified in most of the States formed out of the Territory.

47. Change of Status.—The Ordinance of 1787 was enacted by the Congress of the Confederation,

and the government that it provided was adjusted to the state of things then existing. In 1789 the Constitution of the United States went into operation, creating a new government, and it became necessary to adjust the Territory to the new order of things. Congress passed an act for that purpose in 1791. The principal change involved was, that now the Territorial officers, instead of being appointed by Congress, would be appointed by the President, subject to the confirmation of the Senate.

48. The Second Stage of the Territory.—The Ordinance said the Territory should have a new form of government whenever its free male citizens, of full age, should number 5,000. That number was reached in 1798, and steps were taken to make the change. The first General Assembly met in Cincinnati, September 24, 1799. The Territory then contained nine counties, which were represented in the House of Representatives by twenty-two men. Seven of these representatives came from the old French towns in Indiana, Illinois, and Michigan; the others from the new settlements within the present limits of Ohio. Four of the five members of the Council also belonged to the new settlements. William Henry Harrison, afterwards President of the United States, was chosen the first Delegate to Congress, where he rendered the people much valuable service, particularly in reference to land legislation. St. Clair continued governor as before.

49. Evils of the Land System.—Ohio contained some large tracts of land, the largest embracing more than 4,200,000 acres. Some of these tracts

belonged to many owners in common, but, through the sale and purchase of rights, the lands tended to work into few hands. One result of this was that the great land owners exercised a dangerous power in politics. Voting was *viva voce*, so that any man who cared to do so could know how any other man voted. Governor St. Clair suggested that the ballot should be substituted for the *viva voce* vote, but the suggestion was never adopted until the Constitution of the State was framed in 1802. There were still other evils connected with the subject of lands, but they must be studied in books that give more space to the subject than the present one.

50. The Indians.—As already related, the majority of the Ohio Indians never acknowledged the treaties of Fts. McIntosh and Harmar. They looked upon both treaties as frauds. They insisted that the Ohio River was the boundary between them and the Whites, and they stoutly refused to yield to their enemy a foot of land northwest of that stream. Accordingly, they regarded the new settlements made in 1788 and subsequent years as invasions of their territory. An Indian confederation was formed, having its seat on the Miami and Maumee Rivers, bent on destroying the new towns and driving the white men beyond the Ohio. In this purpose the Western Indians were supported by the Iroquois of New York and Canada. The National Government made every effort to induce the Indians to come to terms, but without avail. There were short lulls of peace; but, on the whole, the bloody struggle that began in 1755 went on, raging along the whole course of the Ohio. Scalping

parties, ambuscades, horse stealing, destruction of boats on the river, the burning of exposed buildings, and the like continued the order of the day. The Whites retaliated in kind, and continued more and more to encroach on the wilderness. The National Government did more than ask for peace; it also sent armed forces into the Indian country to compel the Indians to come to terms.

51. Harmar's Expedition.—In the fall of 1790 Brigadier-General Harmar led an army of about 1,500 men from Ft. Washington against the Miami Indians at the head of the Wabash River. The Indians fled, and Harmar destroyed their towns and corn-fields. He was, however, drawn into ambuscades where his troops suffered so severely that he was compelled to fall back to the Ohio. The Indians now became more troublesome than ever.

52. St. Clair's Expedition.—It was now determined to send another army against the Indians. Governor St. Clair, made a Major-General for the purpose, was put in command of the forces. He advanced from Ft. Washington in September, 1791, his objects being to defeat the Indians and to establish a military post at the head of the Maumee. The army was poorly disciplined, poorly equipped and provisioned, and badly led. On the march Fts. Hamilton and Jefferson were constructed. On the evening of November 3, St. Clair encamped on the bank of the Wabash, in the southwest corner of Mercer County, near the Indiana line. The next morning at dawn the Indians, led by the renowned chief Little Turtle, drove in his advance guard and attacked his camp.

St. Clair showed great courage, but he was both sick and incompetent to deal with such a foe. The Indians gained one of the greatest victories that they ever won over white men. In a few hours one-half the army lay dead on the field, and the other half was in full retreat towards Ft. Washington. This was the bloodiest battle in the annals of Ohio. Consternation now filled the whole Western country, which was practically left without military protection. The Indians, however, gained no permanent advantage.¹

53. Wayne's Expedition.—Washington now appointed General Wayne—the Mad Anthony of the Revolution—to command against the Indians. He reached the Ohio in June, 1792, and at once set about the work of organizing his army. He established his first camp a short distance below Pittsburgh. He knew perfectly well that the two previous disasters had been due as much to poor preparations and bad management as to the courage of the savages, and he did not intend to fall into the same mistakes. So he began thoroughly to drill the officers and men that were sent to him. In the meantime the Government made one more unsuccessful effort to persuade the Indians to treat for peace. Wayne brought his army to Ft. Washington in May, 1793, and in the fall of the same year moved north to where the town of Greenville, Darke County, now is, and here he built a fortified camp. He also sent a detachment to the field on which St. Clair had been defeated, and caused a fort to be constructed there that was named Ft. Recovery. The next season Wayne moved slowly

¹ Howe's *Historical Collections of Ohio*, Vol. II., pp. 485-486.

northward, reaching the junction of the Auglaize and Maumee Rivers early in August. Here he built Ft. Defiance, on the spot where the town of that name now stands. Again he pressed forward, and on the 20th of the month inflicted on the Indians, at the battle of the Fallen Timbers, on the north side of the Maumee, a total defeat. From the effects of this defeat the Ohio Indians never recovered.¹

54. The Treaty of Greenville.—After inflicting still further blows upon the Indians, and building a fortification at the source of the Maumee, where the City of Fort Wayne now stands, General Wayne returned to Greenville to await results. The Indians were at first divided in counsel, but finally they all submitted to terms of peace that they could not longer resist. On August 3, 1795, the thirteen confederated tribes, called the Thirteen Fires, entered into a treaty with the United States that, taking its name from the place where it was negotiated, is called the Treaty of Greenville. The Indians ceded and relinquished to the United States forever all lands lying east and south of the following series of lines: The Cuyahoga River, the portage path from that stream to the Tuscarawas, and this stream to Ft. Laurens; a line drawn from this point southwesterly to Loramie's Store, at the beginning of the portage from the Big Miami to the St. Mary's branch of the Maumee;² a line drawn westerly from Loramie's Store to Ft. Recovery, on a branch of the Wabash, and from this point a straight line south-

¹ Howe's *Historical Collections of Ohio*, Vol. II., pp. 393-401.

² In documents of the last century the Maumee is commonly called the Miami also. To distinguish the streams, they are known as the Miami of the River and the Miami of the Lake.

westerly to the Ohio opposite the mouth of the Kentucky River. This line was long known as the Indian boundary. The lands west and north of it the Indians retained in their own hands, except that they ceded to the Government some small tracts at specified places. Perpetual peace and good will between the parties were declared. All prisoners were restored on both sides. The Government paid the tribes \$20,000 in gifts, and promised them annuities amounting in the aggregate to \$9,500 forever. The Indians also promised to abjure all other influence and put themselves under the protection of the United States.

55. Fruits of the Treaty.—The Treaty of Greenville did not secure to the Government all the lands that had been conceded at Fts. McIntosh and Harmar. Still the treaty ranks among treaties with the Indians as the battle of the Fallen Timbers ranks among victories over them. General Wayne was the heroic figure in both transactions. The most prominent of the Indian leaders was Little Turtle. The treaty was the definite surrender by the Indians of the Ohio border, for which they had contended forty years; it opened more than one-half of Ohio to peaceful settlements, and prepared the way for the surrender of the remainder. The war over, the Territory immediately began to increase in population and in prosperity.

56. Course Pursued by the British Government.—The treaty of 1783 with Great Britain made the St. Lawrence, west of its intersection with parallel 45 degrees north, and a line running through Lakes Ontario, Erie, Huron, and Superior, with the intermediate river connections, a part of the boundary between the

United States and Canada. When the time came, the British Government refused to give up certain posts on the Northern frontier that lay on the southern side of the line, Oswego, Niagara, Detroit, Mackinaw, and others, but retained them in its own possession. The officers commanding the garrisons at these posts, and the British agents among the Indians, sympathized with the Indians in their efforts to drive the Americans beyond the Ohio River, and often furnished them with arms and other necessities of war. More than this, Lieutenant-Governor Simcoe, of Canada, in the spring of 1794, with a British force, marched to the falls of the Maumee, where Perrysburg now stands, and built a strong fortification there. The battle of the Fallen Timbers was fought just above this fortification. At last, a few months after this battle was fought, the British Government agreed to give up the posts that they had so long wrongfully held. On July 11, 1796, the British garrison evacuated Detroit, and a body of American troops marched in and took possession. The other posts were given up about the same time. The flag of the Republic now floated for the first time over the ancient French settlements of Michigan. Wayne's victory contributed to this end, as well as put an end to the Indian war.

57. Governor St. Clair.—While Governor St. Clair was a man of ability and education, a gentleman of high character and much knowledge of the world, he was also set in his own opinions, exacting in his relations with men, and bent on maintaining the full power and dignity of his office. More than this, he was a Federalist in politics, while the majority of

the people of the Territory adhered to the opposing party. Accordingly, there grew up a strong opposition to him. Many of the leading men of the Territory were his bitter enemies. Efforts were once made to prevent his re-appointment, and again to secure his removal from office, but in vain. But at last he made a speech to the Convention that framed the Constitution of the State, which so offended President Jefferson that he removed the veteran Governor. St. Clair had served fourteen years. He now retired to his old home in Pennsylvania, where he died in poverty and neglect in 1818.

58. Indiana Territory.—In the Ordinance of 1787 Congress had reserved the right to divide the Northwest Territory into two districts. In 1800 Congress exercised this reserved right. It enacted that all that part of the territory lying west of the Indian boundary of 1795, from the mouth of the Kentucky River to Ft. Recovery, and a line drawn from Ft. Recovery due north to the International boundary, should, for the purpose of temporary government, constitute a separate district, and be called Indiana Territory. The form of government that had been first set up in the original Territory was established in the new one. William Henry Harrison was appointed the first Governor. For the short time that the name was yet to linger on the map, the Northwest Territory was but a small part of the vast domain to which the name was first given. It embraced Ohio and portions of the present States of Indiana and Michigan. St. Clair was succeeded as Governor by William Willing Byrd, who had been Secretary of the Territory.

CHAPTER VI

OHIO ENTERS THE UNION.

59. Party Strife.—The fierce party strife that sprang up during President Adams's administration in the old States extended to the Northwest. Most of the New England settlers were Federalists, the men from the South were nearly all Republican-Democrats, while those who came from the Middle States were divided somewhat equally. The result was that the people of the Territory became divided politically into two parties: there were Adams men and Jefferson men. Partisan feeling entered deeply into the opposition to Governor St. Clair, and at last the most important Territorial questions were made to turn on National politics; for example, the admission of Ohio to the Union became a party question.

60. The Scheme of 1801.—The Federalists, who had at the time a majority in the Territorial Legislature, in November, 1801, carried a bill that proposed a new boundary for the State that was soon to be born. This boundary, on the west, was the Scioto River, a line drawn from the intersection of the Scioto and the Indian boundary of 1795 to the southwestern corner of the Western Reserve, and the western boundary of the Reserve north to the International line. The other boundaries of the State as proposed by the Ordinance of 1787 were not disturbed. Had Ohio been brought into the Union in accordance with the terms of this bill, the Federalists would have had, for

the time, a majority of voters in the State, and so two Senators and a Representative in the Houses of Congress, and three votes for President and Vice-President. The State, however, would have been little more than one-half her present dimensions. Fortunately, the plan failed, owing first to the opposition of a majority of the people interested, and then to the opposition of Congress.

61. The Enabling Act.—The other party now took the alarm. General Worthington, of Chillicothe, one of the most prominent Jeffersonian leaders, hastened to Washington, where he gave matters a very different direction from that desired by the Federalists. Worthington was also seconded by a petition from the Territory. Congress passed, and on April 30, 1802, President Jefferson signed, an act for the admission of the State to the Union. This was the first proper Enabling Act that Congress ever passed. These are the main features of the act:

(1) The inhabitants of the eastern division of the Territory were authorized to form a constitution and State government, assuming such name as they deemed proper, said State to be admitted to the Union on the same footing as the original States in all respects. (2) The boundaries of the State should be: East, the Pennsylvania line; south, the Ohio River; west, the meridian of the mouth of the Great Miami; north, a due east and west line drawn through the southern extreme of Lake Michigan to the International boundary line. (3) All male citizens of legal age residing in the Territory, having certain prescribed qualifications, were authorized to choose representa-

tives to form a convention, in designated numbers, county by county, on the second Tuesday of October ensuing. (4) The representatives thus chosen were authorized to meet in convention at Chillicothe the first Monday of November, 1802; which convention should determine whether it were expedient at once to form a constitution and government, and, if so, to form them; but if not, then to provide by ordinance for calling a second convention for that purpose, said constitution, in either case, to be republican and not repugnant to the Ordinance of 1787. (5) Until the next census the new State should be entitled to one member in the National House of Representatives. (6) Three propositions were submitted to the Convention which, if accepted, should bind the United States: The grant to the State of Section No. 16 in every township for the use of schools; the grant of certain salt springs; the grant of one-twentieth part of the net proceeds of all lands sold by Congress within the State, to be applied to building roads connecting the Eastern and the Western waters, provided the State would exempt from taxation all such lands for the term of five years from the date of sale.

62. Opposition to the Act.—This act was strongly opposed both in and out of Congress. One objection was that it ignored the Territorial Legislature. Another was that the population of the new State would be too small; a census taken in January, 1802, had found only 45,028 people of all ages and sexes. Still another was that the expense of keeping up a State government would be burdensome to the people. Perhaps the great objection on the part of the Feder-

alists was that the State, with the boundaries proposed, would give the Democratic-Republican party advantages of a political character that they had sought for themselves. In the Territory there was much popular opposition, and Governor St. Clair, in his unfortunate speech before referred to, denounced the act in the bitterest terms. But in a short time the opposition wholly collapsed.

63. The Convention.—In due time the members of the Convention provided for were elected, and on November 1, 1802, they convened at Chillicothe, the place appointed. The 35 members were apportioned to the several counties as follows: Trumbull 2, Jefferson 5, Belmont 2, Washington 4, Ross 5, Fairfield 2, Adams 3, Hamilton 10, Clermont 2. It must be remembered, however, that the counties then bearing these names were much larger than the counties that now bear them. Still, save the two Trumbull County men, all the delegates were from the southern part of the State; the northern and central parts were then unsettled. The Convention had first to decide whether it would itself frame a constitution, or pass an ordinance calling a second convention for that purpose. With a single dissenting voice, it declared in favor of the first course. It proceeded with such dispatch that it adjourned on the 29th of the same month, having completed its work. It conformed with the conditions laid down by the Enabling Act, save in one particular. It introduced a change in the description of the northern boundary line that was the source of much future trouble.¹ The Convention made no provision

¹ See Chap. IX, paragraph —.

for submitting the Constitution to the people, and it never received any ratification other than that given by the Convention itself.

64. The Constitution.—The new government was extremely democratic in character. The Legislature was made unduly strong, the Executive unduly weak. The appointing of the principal State officers was placed in the General Assembly, including even the judges and generals of the militia. An historian of the State has said that the Constitution was framed by men of little experience in matters of state, and under circumstances unfavorable to much forecast. "Briefly stated," he says, "it was a government which had no executive, a half-starved, short-lived judiciary, and a lop-sided legislature." "In after years," he continues, "Ohio's greatest and wittiest governor was wont to say, that after passing the first week of his administration with nothing to do, he had taken an inquest of the office, and found that relieving criminals and appointing notaries were the sole 'flowers of the prerogative.'"¹ Some of these defects were corrected in 1851; some have never been corrected. At both dates the veto power was withheld from the governor. Ohio is one of the four States that have always denied the executive all participation in legislation. The extreme weakness of the executive office has sometimes been explained by saying that it was due to general disgust with the arbitrary course that Governor St. Clair had pursued. But imperfect as the new government was, Ohio thrived under it for fifty years.

¹ King, Rufus: *Ohio* (in the American Commonwealths), p. 291.

65. The Slavery Question.—The Ordinance of 1787 had declared that there should be neither slavery nor involuntary servitude, save as a punishment for crime, in the Territory northwest of the River Ohio. This prohibition was unsatisfactory to many citizens of the Territory, and repeated attempts were made, without success, to secure its repeal. Slavery proved to be a disturbing element at Chillicothe. An effort was made to insert in the Constitution a provision that permitted a modified form of slavery. It was proposed that male slaves might be held until they were 35 years of age, females until 28 years of age. Still other propositions favorable to slavery were brought forward. Happily these all failed, although the most critical vote for freedom was carried by a majority of only one both in committee and in the Convention. The article that was finally adopted forbade slavery in the very words of the Ordinance. This fortunate result was reached mainly through the efforts of Judge Ephraim Cutler of Washington County.¹

66. The New Government Set in Motion.—On January 11, 1803, the first State election was held. March 1 following the first General Assembly sat at Chillicothe. On canvassing the vote for governor, it was found that Edward Tiffin, who had been Presi-

¹ No mention of such a contest in the Convention of 1802 is made in the current histories of Ohio, and no reference to it is found in the Journal. The authority for the statement made in the text is Judge Ephraim Cutler, who was not only a member of the Convention, but of the committee that framed the Bill of Rights and dealt with this subject. See *Life and Times of Ephraim Cutler, Prepared from His Journals and Correspondence*. By his daughter, Julia Perkins Cutler, Cincinnati, 1890, pp. 74-77.

dent of the Convention, had a majority, and he was declared duly elected. The necessary legislation to set the wheels in motion was enacted. Return Jonathan Meigs, Jr., Samuel Huntingdon, and William Spriggs, Jr., were appointed Judges of the Supreme Court. Thomas Worthington and John Smith were chosen Senators. The election for a member of the National House of Representatives was fixed for June 11, and on that day Jeremiah Morrow was chosen. As Congress had adjourned March 3, the newly elected Senators and Representative did not take their seats at Washington until the following session of Congress. The admission of the State had been a Democratic-Republican measure, and that party controlled the State government on its organization.

67. The Date of Admission.—Strangely enough, the date of the admission of Ohio to the Union is a subject of dispute. Eight different dates have been proposed for the honor, but only four of these need be particularized, viz.: April 30, 1802, the date of the Enabling Act; November 29, same year, the date of the adoption of the Constitution by the Convention; February 19, 1803, and March 1, of the same year. The fact is that Congress never admitted Ohio to the Union by a formal act, and so we are left to decide the question of the date in view of all the facts involved. On the third of the above dates an act was passed entitled "An Act to provide for the execution of the laws of the United States within the State of Ohio," and there seems good reason to hold that this was equivalent to the usual formal act of admission.



GOVERNOR TIFFIN.

Still it has been said that Congress by vote paid the salaries of the Territorial officers until March 1 following. February 19, 1803, is no doubt the proper date.¹

NOTE.—The following facts in relation to the history of the Great Seal of Ohio are taken from Howe's *Historical Collections of Ohio*, Vol. III., pp. 190-191: In the acts of the first session of the First General Assembly, held under the first Constitution of Ohio, in 1803, a description of the State Seal is found in a law prescribing the duties of the Secretary of State. The Act says: The "Secretary



of State shall procure a seal, one inch and a half in diameter, for the use of each and every county now or hereafter to be created, on which seal shall be engraved the following device: On the right side, near the bottom, a sheaf of wheat and on the left a bundle of seventeen arrows, both standing erect in the foreground, and rising above the sheaf and arrows a mountain, over which shall appear a rising sun. The State Seal to be surrounded by these words:

'The Great Seal of the State of Ohio.'" The seal was then made. The picture of the seal as it was used by the State in 1846, and as it appeared in our first edition, contained a canal boat, with date 1802, as shown. The canal boat could not have been on the seal as originally made, but the date 1802 undoubtedly was. No date now appears on the State seal: gone also is the canal boat; gone also is the water; but the mountains are still there; the morning sun still peeps over the land. It is claimed that the mountains on the seal were copied from the Mount Logan range, opposite to Chillicothe, beyond the Scioto River. According to tradition, Logan had a cabin on Mount Logan and was murdered there; but this last statement is extremely doubtful, etc.

¹ The late Dr. I. W. Andrews, of Marietta, who was a very thorough student of Northwestern history, investigated this subject carefully, and reached the conclusion that the date given above is the proper one. See an article entitled "Kentucky, Tennessee, Ohio: Their Admission into the Union."—*Magazine of American History*, October, 1887.

CHAPTER VII

THE HISTORICAL DIVISIONS OF THE STATE

The State of Ohio is composed of various divisions that have no physical, political, or civil existence, but only an historical significance. These divisions are called, some "purchases," some "tracts," some "districts," some "grants," etc. They will now be described.

68. The Seven Ranges.—In 1786-87 Congress caused some surveys of lands to be made in Ohio in conformity with the Land Ordinance enacted in 1785. Thomas Hutchins, the Geographer of the United States, first ran a line westward from the intersection of the Ohio River and the western boundary of Pennsylvania (which had been marked out a year or two before) forty-two miles. This line, known as the Geographer's Line, runs across Columbiana and Carroll Counties, reaching its western terminus near the village of Sandyville. Next seven tiers or ranges of townships six miles square were run out on the south side of this line, abutting on Pennsylvania and extending to the Ohio River. The ranges were marked 1, 2, 3, . . . 7, from the Pennsylvania line westward, and the townships 1, 2, 3, etc., from the river northward. The townships were then cut up into lots one mile square, which were numbered in the same manner. The Indians, who repudiated the Treaty of Ft. McIntosh, as before explained, were hostile, and

the surveyors ran their lines under the protection of details of soldiers from Ft. Harmar. The western line runs through Tuscarawas, Guernsey, Noble, and Washington Counties, striking the Ohio River a few miles above Marietta. Some time later the Government caused



the lands lying between the Geographer's line and the Western Reserve to be surveyed in the same manner. As these first surveys embraced seven ranges of townships, the district is known in the history of the State as the Seven Ranges. Permanent settlements in this

district began soon after the surveys were finished. The Government put the lands on the market at \$1 per acre.¹

69. The Ohio Purchase.— This was the purchase made by the Ohio Company of Associates in 1787, as related in Chapter V. As there stated, the lands finally patented to the Company were only about one-fifth part of those covered by the original contract, or 1,064,285 acres. To a large extent the members of the Company became also settlers of the Purchase. This tract of lands was surveyed in the same manner as the Seven Ranges, and was disposed of by the Company as it saw fit.

70. The Symmes Tract.— The Ohio Purchase was not the only sale of Ohio lands made in 1787. Congress also sold that year to John Cleves Symmes, a distinguished citizen of New Jersey, who became one of the judges of the new Territory, for himself and others associated with him, the tract lying between the Little and Big Miami Rivers, extending as far back from the Ohio as the Ohio Purchase extended, and supposed to contain 1,000,000 acres. These lands were sold on the same terms as the lands to the Ohio Company. The purchasers were unable to make full payment, and only one-third of the tract, or 311,682

¹ Col. Whittlesey says of the Seven Ranges: "In the history of land surveys this is the first application of the rectangular system of lots in squares of one mile, with meridian lines and corner posts at each mile, where the number of the section, town, and range was put on the witness trees in letters and figures. It should be regarded as one of the great American inventions, and the credit of it is due to Thomas Hutchins," etc. — Howe's *Historical Collections of Ohio*, Vol. I., pp. 132-136.

acres, was ever patented to them. It was surveyed in the same manner as the Seven Ranges and the Ohio Purchase. Settlement began in 1788. Containing, as it does, the City of Cincinnati, long the first city of the West, it has been a very important factor in the State history.

71. The Virginia Military District.—When Virginia made her cession of lands beyond the Ohio, in 1784, she reserved conditionally the territory lying between the Scioto and Little Miami Rivers, for the use and benefit of her soldiers who had served in the Revolutionary War. Under an act of Congress passed in 1790 these lands were appropriated to their intended use. The method by which this was done was extremely imperfect and clumsy. There were no preliminary surveys or records made by the Government or by the State of Virginia. Every man to whom a claim had been adjudged, either because he had served in the army or because he had come into possession of it by inheritance or purchase, was practically left to locate and survey his own tract: first come, first served. These locations and surveys were recorded in the office of the Secretary of State at the National Capital, and the deeds were issued by the President. As a rule the first surveys were in excess of the claims granted. Because the boundary lines and corners were marked by “blazing” trees with a hatchet, this system of locating lands, which had originated in Virginia, was known as the tomahawk system. Naturally, there were frequent conflicts of claims and disputes about titles, and consequently a great amount of litigation before rights were finally settled. A dispute

having arisen as to the proper boundary of the reservation, the National Supreme Court decided in 1824 that the District included the lands lying between the Ohio, the Scioto, and Little Miami Rivers, and a straight line drawn from the source of the Miami to the source of the Scioto. How different the Virginia system of surveying and locating lands was from the Congressional system, can be seen by comparing the two sides of the counties that are split by the Scioto River as shown on a large county map. About one-sixth part of the State, or, more exactly, 6,570 square miles of the fairest part of Ohio, lies in the Military District.

Permanent settlements began to be made about the time that General Wayne inflicted upon the Indians the crushing defeat on the Maumee. Chillicothe, long the principal town of the District, once the Capital of the State, and now the county seat of Ross County, was laid out by General Nathaniel Massie in 1796. The early settlers were mainly Virginians, some of them, like Massie, coming immediately from Kentucky. Many of them were able men, of considerable fortune, and they exercised a powerful influence on the early history of the State. It is quite safe to say that without the leadership of the principal citizens of the Virginia Military District, such men as Massie, Tiffin, and Worthington, Ohio would not have been admitted to the Union until a later date than 1803.¹

72. The Western Reserve.— It has been stated on a previous page that when Connecticut made her land

¹ Much interesting matter relating to the District and the admission of Ohio will be found in Mr. David Meade Massie's *Nathaniel Massie: A Pioneer of Ohio*, Cincinnati, 1896.

cession in 1786, she retained in her own hand a portion of the lands that she had claimed. These lands were bounded north by the International boundary line, east by Pennsylvania, south by parallel 41 degrees north latitude, and west by a line parallel with the western boundary of Pennsylvania and 120 miles distant from that boundary. This block of territory Connecticut was said "to reserve," and it soon came to be called the Connecticut Reserve, the Western Reserve, New Connecticut, etc. It comprises about one-eighth part of Ohio, or 5,000 square miles. The counties of Ashtabula, Lake, Geauga, Portage, Trumbull, Cuyahoga, Medina, Lorain, Huron, and Erie lie wholly within the limits of the Reserve; also the ten northern townships of Mahoning County, all of Summit but the two southern townships, the three northern townships of Ashland, and the tip of Ottawa.

73. The Fire Lands.— In 1792 the General Assembly of Connecticut gave 500,000 acres of the lands lying across the western end of her reservation to the inhabitants of certain towns in the State who had suffered from the incursions of the British during the Revolutionary War, or, in case they were dead, to their legal representatives, their heirs and assigns. These lands were to be divided among the sufferers, as they were called, in proportion to their respective losses, as these had been estimated by a committee previously appointed by the Assembly. These lands are known in Connecticut history as The Sufferers' Lands, in Ohio history as The Fire Lands. The Sufferers incorporated themselves in both States, in Ohio under the name of the "Proprietors of the Half

Million Acres of Land Lying South of Lake Erie." The lands were duly surveyed into townships five miles square, and in 1808 were distributed among the shareholders by lot. Their settlement began soon after. The Fire Lands are comprised within the present counties of Huron and Erie.

74. The Connecticut Land Company.—In 1795 the General Assembly of Connecticut sold the remainder of the Western Reserve to a syndicate of thirty-five purchasers, known as the Connecticut Land Company. The amount of land covered by the sale was somewhat less than 3,000,000 acres, and the price was \$1,200,000. In quantity, it was by far the largest land sale ever made in the history of Ohio. The next year the Company sent on its surveyors, who began their work at the mouth of Conneaut Creek by celebrating the twentieth anniversary of American Independence. This celebration was really the beginning of history in Northern Ohio. As fast as the lands were surveyed and other arrangements made, they were distributed by lot among the shareholders of the Company according to their respective interests. The first drawing was made in 1798; the fourth and last one, in 1809. The Connecticut Land Company's purchase was surveyed into regular townships five miles square, the ranges being numbered from east to west and the townships from south to north.

75. Settlement of The Reserve.—Settlers quickly followed the surveyors to New Connecticut. In 1800 there were 20 or 30 settlements, and the census-taker counted a population of 1,302 persons. The superintendent of the Connecticut Land Company in 1796,

was General Moses Cleaveland, of Canterbury, Conn. When the surveyors had started from the mouth of Conneaut Creek, Cleaveland pushed westward along the lake shore, and his arrival at the mouth of the Cuyahoga River on July 22 was the real beginning of the city that takes its name from him.¹ The settlement of the Reserve was for a time retarded by a controversy about land titles and political jurisdiction, but this controversy was quieted in the year 1800. The first election was held at Warren in that year.

76. The United States Military Bounty Lands.—With a view to stimulating recruiting, the Continental Congress, early in the Revolutionary War, began to offer land bounties to men who should serve, subject to certain conditions, in the Continental army. The war over, Congress took steps to redeem its promises. In June, 1796, it directed that the tract now known by the above name should be surveyed and set apart for Continental soldiers entitled to bounties. This tract is the land bounded on the east by the west line of the Seven Ranges from the Geographer's line 50 miles south; on the south by a line parallel with the southern boundary of the Western Reserve; on the west by the main branch of the Scioto River, from the southern line to the Indian boundary as fixed by the Treaty of

¹ At this writing (July, 1896), the Western Reserve, led by the City of Cleveland, is appropriately celebrating, by a series of centennial commemorations, the arrival of Cleaveland at the Cuyahoga River, and the real beginning of history in Northeastern Ohio. The "a" was dropped from the first syllable of the name of the City in this manner: The publisher of an early newspaper omitted it from his heading, because he could not fit his type to the size of his paper, and his example was generally imitated. This paper was *The Cleveland Advertiser*, 1830.

Greenville in 1795; on the north by the Indian line as far as the Tuscarawas branch of the Muskingum River, thence up¹ that branch until it meets a line drawn due west from the place of beginning, and then such line from the Tuscarawas to the place of beginning. This body of land, which lies in the east-central part of the State, embraces about 4,000 square miles. The act of 1796 directed that it should be surveyed into townships five miles square. The State Capital is near the southwest corner of this tract.

77. Smaller Tracts.— Besides the large tracts that have been mentioned, there are many other districts of the State that bear, or that have borne, special names. Three or four of these may be particularly mentioned. In 1789–90, considerable numbers of French refugees arrived on the Ohio River, and planted themselves on its northern side, just below the mouth of the Great Kanawha. They had come out from France in consequence of representations made to them by the agents of the Scioto Company, which was mentioned in a previous chapter.² This Company was unable to meet its engagements with the Frenchmen, and they were soon reduced to extremities. In 1795 Congress gave these miserable people 24,000 acres of land, known as the French Grant. This emigration gave names to Gallia County and the City of Gallipolis, suggested by the ancient

¹ The language of the law does not correspond with the facts of geography and history. It is not necessary to go "up" the Tuscarawas. As it happens, the Geographer's line and the Indian boundary at the east end are nearly in the same latitude.

² See *Publications of the Ohio Archaeological and Historical Society*, Vol. III., for much interesting matter in relation to this subject.

names of the country and people of France. In 1801 Congress gave six townships of land lying south of the Bounty Lands to certain refugees from Nova Scotia and Canada who had adhered to the American cause in the Revolution. In 1796 Congress gave three tracts, each of 4,000 acres, on the Tuscarawas, to the Moravians, the old seats of the Christian Indians previously mentioned; but these lands were subsequently retroceded to Congress and sold, while the Indians removed to Canada. The remaining tracts are: The Donation Tract, Dohrman's Grant, Zane's Grant, Canal Lands, Turnpike Lands, Maumee Road Lands, School, University, and Ministerial Lands, and the Salt Sections. The origin and destination of several of these tracts are explained in other places in this book.¹

78. Congress Lands.— With the exception of the Western Reserve, the Ohio Company's Purchase, the Virginia Military District, the Symmes Tract, the United States Bounty Lands, and, perhaps, some small tracts besides, the lands of Ohio are known by the general name of the Congress Lands. The Seven Ranges are included in this designation. These lands were so called because they were surveyed under the immediate direction of Congress, and were sold or otherwise disposed of for the common benefit. After the Seven Ranges, the Ohio Purchase, and the Symmes Tract were surveyed, the system of surveys was changed in one particular. Since then the mile-square lots, or sections, into which the Congressional

¹ See also John Kilbourne, "The Public Lands of Ohio," *Howe's Historical Collections of Ohio*, Vol. I., pp. 128-133.

township is divided, are marked from 1 to 36, back and forth, beginning in the northeast corner.¹

79. Character of the Divisions.—While the foregoing divisions of the State have now no legal existence, and no civil or political signification, they still have a large historical importance. The early history and present character of Ohio cannot be understood without taking them into the account, and they are still important factors in the life of the people. The Seven Ranges were settled mainly by people from Pennsylvania and Virginia. The pioneers of the Ohio Purchase and the Western Reserve came nearly all from New England. The Virginia Military District was settled by Virginians. Many Middle-State men came to the Symmes Tract, especially men from New Jersey. The character of the first population of the French Grant has already been explained. The Bounty Lands and the Congress Lands generally were much more indiscriminately settled than the tracts just mentioned. As was natural, the principal historical divisions of the State took their character from those parts of the Union from which they drew their

¹ The following blocks of figures will illustrate the two methods of marking the sections of a Congressional township:

FIRST METHOD.						SECOND METHOD.					
36	30	24	18	12	6	6	5	4	3	2	1
35	29	23	17	11	5	7	8	9	10	11	12
34	28	22	16	10	4	18	17	16	15	14	13
33	27	21	15	9	3	19	20	21	22	23	24
32	26	20	14	8	2	30	29	28	27	26	25
31	25	19	13	7	1	31	32	33	34	35	36

first inhabitants. The characters of New England, Pennsylvania, and Virginia, in particular, are plainly written in early Ohio history. Later emigration and the commingling of elements have tended to efface early differences, and to make the population more homogeneous; but this end has by no means been fully accomplished. In general, Ohio may be divided into three belts, or bands, extending across the State from east to west, as marked by the original character of their population. The New England belt covers the North, the Pennsylvania belt embraces the Central parts, while the Virginia belt covers the South. Still, this division must not be too closely pressed.

CHAPTER VIII

OHIO IN WAR

Since her admission to the Union, Ohio has participated in four wars, counting the further conflict with the Indians as one. Her part in these wars will now be described.

80. The Indians After the Treaty of Greenville.—This treaty left about one-third of Ohio in the hands of the Indians. The Indians also exercised the right of passing through the territory that they had sold in 1795, and hunting in it, which the treaty had guaranteed them, but they refrained from acts of hostility. They saw, however, that the white population was continually increasing, and they knew perfectly well that, if this increase went on unchecked, the boundary line which the treaty had established would not furnish them any permanent protection against further aggression. Still, the Indians continued quiet until they began to forget the great defeat of 1794 and Tecumseh began to gain an ascendancy over them.

81. Tecumseh.—This renowned warrior was born at Piqua, an old town of the Shawanese tribe, about five miles west of the City of Springfield. The date of his birth is given as about 1768. He took an active part in the hostilities against the Whites from the time that he was old enough to follow the war-path until the battle of the Fallen Timbers. After peace was made in 1795, he lived sometimes at one place and some-

times at another. In 1805 he and his brother Elsquata established themselves at Greenville, where they began to gather around them an increasing number of Indians. Elsquata, who is known as the Prophet, claimed to be the agent of the Great Spirit, and by means of cunning and sorcery contrived to gain much influence over the tribesmen. The two brothers were not chiefs, and they sought to break down the power of the chiefs of their own tribe and other tribes, because, as they believed, the chiefs were selling the hunting grounds for their own benefit. Stealthily the brothers undertook to organize a widespread Indian conspiracy. The Prophet set up a mysterious religious order, with a view to controlling the minds of the Indians; while Tecumseh ranged in all directions, from Florida to the far North, and from Western New York to the Mississippi, trying to persuade the tribes to join in one more movement to drive their enemies beyond the Ohio. It was the old plan of Pontiac and the Confederates of the Miami over again. Finally, the Indians who were under the influence of the two brothers became threatening and troublesome. In 1808 Tecumseh and the Prophet removed to a branch of the Wabash River, in Indiana, where they continued their plotting. In December, 1811, General Harrison inflicted upon the Prophet a severe defeat at the battle of Tippecanoe, which destroyed his power. Generally the Indians now made peace, but Tecumseh continued as hostile as ever, and the Indian war soon merged in the war with Great Britain. Tecumseh now joined the British army on the Detroit River, and bore an active part in the war in the Northwest until it closed

with the defeat of the British and his own death, as will soon be narrated. It is to be said to the honor of Tecumseh that, although he was an implacable enemy, he never resorted to the inhuman cruelty in which most Indians so much delighted.¹

- **82. Beginning of the War of 1812.**—When this contest opened, Ohio contained a population of something more than a quarter of a million people. A very large majority of these people lived in the southern part of the State. The parts adjoining Michigan and Lake Erie did not contain more than 20,000 souls, and most of these were found east of the Cuyahoga River. The surrender of General Hull, in August, 1812, threw all Michigan into British hands, and laid the whole northwestern part of Ohio open to British invasion. In addition to actually possessing the western bank of the Detroit River, the British also commanded the head of Lake Erie. The people in the more exposed parts now fled in terror from their homes, and the whole State was panic-stricken. The calling out of the militia, and the arrival of some Kentucky troops, tended partially to restore confidence. General Harrison was put in command of the Northwestern army, and he spent the last months of the year in attempting to organize a force with which to re-conquer Michigan. Thus far the war had been very unfavorable to the Americans.

83. The Further Progress of the War.—In January, 1813, a detachment of Harrison's army reached Frenchtown (now Monroe) on the River Raisin, in

¹ Accounts of Tecumseh will be found in Howe's *Historical Collections of Ohio*, Vol. I., pp. 328, 374, 387, 391, 532.

the Territory of Michigan. Here it was attacked by a force of British and Indians, and compelled to surrender, whereupon the larger part of the detachment were butchered in cold blood by the savages. In the spring following Harrison built a strong fortification at the foot of the rapids of the Maumee, naming it Ft. Meigs in honor of Governor Meigs. General Proctor, the British commander, with an army of regulars, Canadian militia, and Indians led by Tecumseh, entered Ohio and twice attempted the capture of this fort, together with General Harrison's army, but failed in both instances. Soon after the failure of the second attack, Major Croghan, with a small garrison, successfully defended Ft. Stephenson, on the Sandusky River, where Fremont now stands, inflicting upon the enemy a severe loss. The capture of the British fleet in the battle of Lake Erie by Commodore Perry, September 10, was the turning point of the war in the Northwest. The British were now compelled to abandon not only Ohio but Michigan as well. There soon followed in quick succession the re-occupation of Detroit by the American troops, General Harrison's passage with his army into Canada, his pursuit of Proctor, and his complete victory over that commander at the battle of the Thames. One of the incidents of this battle was the death of Tecumseh. Ohio soldiers continued to serve until the end of the war, but as directly involving the State the War of 1812 was at an end. Moreover, this war was the end of the long struggle for Ohio that the Indians began in 1755.¹

¹ Howe, *Historical Collections of Ohio*, Vol. III., pp. 560-578.

84. Indian Treaties.—The failure of Tecumseh naturally led at once to further concessions by the Indians. In fact, some important concessions had already been made before the War of 1812 commenced. For example, by the Treaty of Fort Industry (Toledo), entered into in 1805, the tribes interested sold to the United States forever, for a certain sum paid down, and a perpetual annuity of a specified amount, all their right and title to the lands lying east of the western boundary of the Western Reserve, extended north to the International line and south to the Indian boundary of 1795. This treaty released the western half of the Western Reserve, including the Fire Lands, and the parallel strip lying between the Reserve and the Greenville treaty line. A series of treaties¹ negotiated in the period 1807-1818 released the remainder of the State, save only a few scattered reservations that the Indians retained in the northwestern part. The double ownership of the soil, that of the Government and that of the Indians, now came to an end. One by one the Ohio tribes exchanged their reservations for much larger reservations west of the Mississippi River. The Wyandots were the last to go. The remnant of this once powerful tribe, about 700 in number, in 1842 ceded to the United States its last reservation, lying near Upper Sandusky, and soon after removed to Kansas. The progressive yielding of the land by the Indians left it open for settlement and cultivation.

85. The Mexican War.—The annexation of Texas

¹ These are the names of the principal treaties, with dates: Treaty of Detroit, 1807; Treaty of Brownstown, 1808; the Treaty of the Rapids of the Miami of the Lake (Maumee), 1817, and the supplement to this Treaty, 1818.

in 1845 brought on the Mexican War the year following. Congress voted 50,000 volunteers, and 20,000 were at once called out for service, 3,000 of the number being assigned to Ohio. Out of the forty companies that reported at Camp Washington, near Cincinnati, thirty were accepted and formed into three regiments and dispatched to the Rio Grande. In 1847 some additional battalions were sent forward, making in all about 5,500 men for the State. One of the regiments bore a distinguished part in the storming of Monterey. Only one citizen of Ohio thoroughly identified his name with the war as a soldier. This was Thomas L. Hamer, a distinguished lawyer and citizen of Brown Connty, who enlisted as a private, but soon rose to the rank of brigadier-general, and lost his life from disease.

86. Ohio Invaded by the Confederates.—The State lay far north of the center of the war region of 1861-65, and her borders were threatened by an invader only in two instances. In September, 1862, General Kirby Smith, commanding a Confederate army of 15,000 men, approached within five miles of Cincinnati, with a view of capturing the city. A strong Union force was collected for its defense, and General Smith retreated without making an attack. It was on this occasion that the Squirrel Hunters, as they were called, men wholly untrained to war, equipped with such arms as they could find, rallied in thousands to oppose the enemy. In July of the following year, the Confederate general John Morgan crossed the Ohio River in the neighborhood of Louisville, Ky., with a force of about 2,000 mounted men, and, turning east-

ward, entered Ohio and passed just to the north of Cincinnati. His intention was to alarm the State, to call back Union troops from the theater of war in Tennessee, and then to recross into Kentucky. Fortunately, the water in the river was at a high stage, so that the gunboats were able to oppose his crossing at all points, and he, after making a forced march nearly to the Pennsylvania line, was compelled to surrender in Columbiana County. Morgan was for a time confined in the Ohio penitentiary, but made his escape.

87. Ohio in the Civil War.—The record that Ohio made in the Civil War is a highly honorable one. Her people were thoroughly committed to the support of the Union. During the war the President called on the State for 306,322 men for the army and navy. She furnished a total of 313,180, or 240,514 on a basis of three years' service. This was one-ninth of the armies that suppressed the Rebellion. Of these men fewer than 9,000 were drafted. Ohio soldiers fought on almost every important field of the war, rendering good service to the Government and reflecting honor on the State. Eighty-four in every 1,000 of these soldiers lost their lives in the struggle. Ohio also furnished the service some of its most brilliant officers. Grant, Sherman, and Sheridan were born on Ohio soil, and Sherman and Sheridan belonged to the State when the war broke out. Besides these she furnished thirteen Ohio-born major-generals, and more than thirty Ohio-born brigadier-generals, not to speak of many other generals resident in the State who were born elsewhere. Ohio also furnished some of the most distinguished civilians of the period: William Den-

nison, David Tod, and John Brough, War Governors; E. M. Stanton, Secretary of War; S. P. Chase, Secretary of the Treasury; B. F. Wade, Chairman of the Committee on the Conduct of the War; John Sherman, Chairman of the Finance Committee of the Senate; and Jay Cooke, who negotiated many Government loans as the special agent of the Treasury Department.

THE MILITARY POSTS, FORTS, AND BATTLEFIELDS WITHIN THE STATE OF OHIO.

A chapter bearing the above title, prepared by the late A. A. Graham, Secretary of the Ohio State Archeological and Historical Society, will be found in the publications of that society, Vol. III. The following is a resumé of this chapter, which is also illustrated by a reproduction of Mr. Graham's map on opposite page.

FORT MIAMI.—Built by the French in 1680, a military trading-post about fifteen miles up the Maumee River from its mouth.

FORT SANDUSKY.—A stockade trading place, also built by the French about 1760, on the left bank of the Sandusky River, not far from the site of Sandusky City.

LORAMIE'S FORT.—This place was occupied by the English as a trading station as early as 1750. It was then called Pickawillany; 1794 General Wayne built the fort bearing this name.

FORT JUNANDAT.—A trading station on the right bank of the Sandusky River, built by French traders about 1754.

FORT GOWER.—Built by Lord Dunmore at the mouth of Hocking River in 1774.

PORT LAURENS.—Named in honor of the first President of Congress; was built in the fall of 1778 by a detachment under command of General McIntosh, American commander at Pittsburg. It stood on the Tuscarawas River a little below the mouth of Sandy Creek.

FORT HARMAR.—Built by Major Doughty, in 1785, on the right bank of the Muskingum, at its mouth.

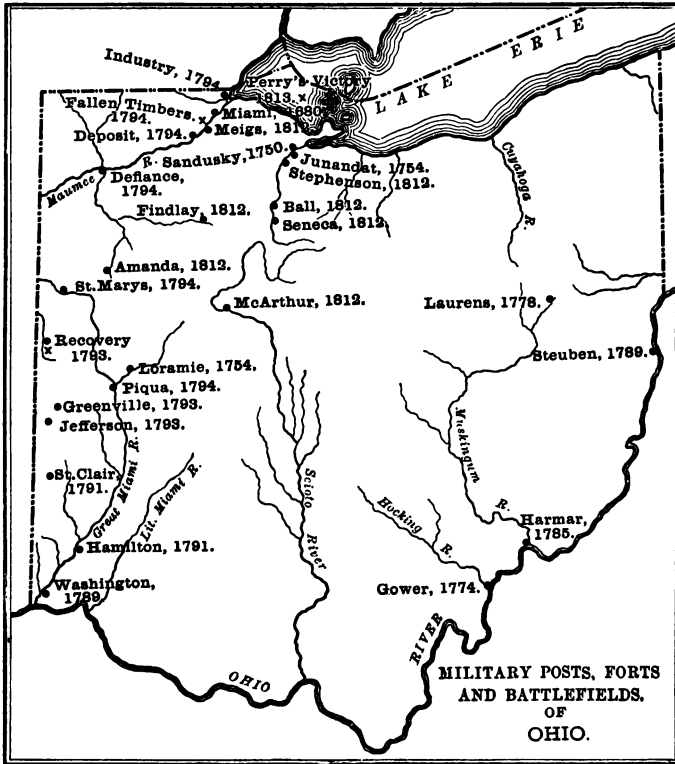
FORT STEUBEN.—Built in 1789 on the site of the present City of Steubenville.

FORT WASHINGTON.—Built by Major Doughty, in 1789, on the site of the present City of Cincinnati.

FORT HAMILTON.—Built by Governor St. Clair, in 1791, on the present site of the City of Hamilton.

FORT JEFFERSON.—Also built by St. Clair in 1791; stood a few miles southwest of the present City of Greenville.

FORT ST. CLAIR.—Built in the winter of 1782-92, by Major Gano; stood in the present town of Eaton, Preble County.



FORT GREENVILLE.—On the site of Greenville; built in December, 1793, by General Wayne.

FORT RECOVERY.—On the site of St. Clair's battlefield of Nov. 4, 1791; built by a detachment from Wayne's army in December, 1793.

FORT PIQUA.—Built by General Wayne in 1794; three miles north of Piqua, Miami County,

FORT ST. MARYS.—Was built by a detachment from General Wayne's army, in 1794, on the site of the town of St. Marys, in Mercer County.

FORT DEFIANCE.—Was built at the junction of the Auglaize and Maumee Rivers by General Wayne when on his march against the Indians.

FORT DEPOSIT.—Stood on the left bank of the Maumee below Fort Defiance; built by General Wayne in August, 1794.

THE BATTLE OF THE FALLEN TIMBERS.—Aug. 20, 1794. An account of this battle has been given in a previous chapter.

FORT INDUSTRY.—Built on the site of Toledo by a detachment of Wayne's troops soon after his victory.

FORT FINDLAY.—Small stockade, Hancock County; built during the war of 1812 on Blanchard's Fork.

FORT AMANDA.—Also a small stockade built in the war of 1812; in Allen County, on the west bank of the Auglaize.

FORT McARTHUR.—Built during the war of 1812 on the Scioto River in what is now Hardin County.

FORT BALL.—Stood within the limits of the present City of Tiffin; was built by a detachment from General Harrison's army in 1812.

FORT STEPHENSON.—Stood on the site of the present City of Fremont; built during the war of 1812.

FORT SENECA.—Stood a few miles above Fort Stevenson on the Sandusky River; built in the same war.

FORT MEIGS.—Was built by General Harrison in the winter of 1812-13 on the right bank of the Maumee opposite the Rapids.

PERRY'S VICTORY.—September 10, 1813.

FORT WAYNE.—Stood at the junction of the St. Joseph and the St. Mary's forming the Maumee; the site appears in French history. General Wayne built the fortification after the battle of the Fallen Timbers. While not on Ohio soil, Ft. Wayne is frequently mentioned in early Ohio history.

CHAPTER IX

THE PROGRESS OF THE STATE

No other State has equaled Ohio in rapidity of early development. When she entered the Union in 1803, she was the fourth in order of the new States, and the seventeenth of the total number. She began at once to make her way towards a leading position in the Union, and this early promise she has fully sustained. Adequately to describe her progress would require a large volume; here the subject must be dispatched in a few pages.

88. Early Roads to Ohio.— There were several natural avenues by which Ohio could be reached from the East. One led from New England westward through New York to the foot of Lake Erie, and thence along the southern shore of the lake through Northwestern Pennsylvania. The second ran westward from Philadelphia through Central Pennsylvania to the upper waters of the Ohio, and then down that stream to the southern parts of the State, or westward from Pittsburg into its central parts. A third road ascended the Potomac and crossed the mountains to the Ohio. Still a fourth led from Eastern Virginia through the Shenandoah Valley and the gaps in the mountains into Eastern Tennessee and Central

Kentucky, striking Southwestern Ohio. These were the thoroughfares by which the early emigrants reached the State. The New England emigration came partly by the New York and partly by the Pennsylvania route, the Middle-State emigrants took the second route. The Virginians came by the second, third, or fourth route, while the Carolinians followed the fourth one.

89. Early Modes of Travel.— The first white men who came over the mountains to Ohio followed the “streets” or buffalo trails that the deer and buffalo had made. Next use was made of the Indian trails, which, widened by the pioneer’s ax, became “traces.” At a later day regular roads were cut through the forest for wheeled vehicles. When possible, hunters, traders, and emigrants alike kept to the rivers. Here the means of transportation were the Indian canoe, the French batteau, and, at a later day, the keel-boat and the ark. The movement of both passengers and freight was mainly down the falling streams. Boatmen who descended to New Orleans generally broke up their keel-boats and arks and sold the material for lumber. Those who came from the Upper Ohio then returned home by sea to Baltimore or Alexandria, and one of the roads over the mountains, while those who belonged below the Muskingum River marched back in companies through the forests by Natchez, Nashville, and Central Kentucky. The Indian traders who kept inland used the pack-saddle and the train of pack-horses. Wheeled vehicles came with the first permanent settlements. We are now to take a general view of the vast transportation system that has

taken the place of these primitive modes of transportation and travel.

90. The Cumberland Road.— In 1806 Congress passed a bill authorizing the construction, at the National expense, of a road from Cumberland on the Potomac River to Wheeling, on the Ohio. Later this road was pushed westward until, in 1838, it had reached Illinois, where its further progress was stopped by the opening of the railroad era. This famous road crosses Ohio, passing through Columbus, and in its time was a great thoroughfare to the farther West. It is commonly known as the National Road or National Pike. Many other pikes were constructed, uniting important towns and cities, and over them, as well as the National Road, stage-coaches conveyed passengers.

91. Canal Building.— Early in the present century it was believed that navigable lakes and rivers afforded the best possible means of travel and transportation. None dreamed of the railway, or at least of the steam locomotive. This belief was strengthened by the introduction to the Western waters of the steamboat. In 1811 the first steamboat built in the West descended the Ohio and the Mississippi from Pittsburg to New Orleans, and in 1818 the first one built on the Lakes made the trip from Buffalo to Detroit. In the West, therefore, the first great problem of improved transportation was the provision of improved means of communication between the great rivers of the Southern system of waters and the Great Lakes of the Northern system. Common dirt roads would not answer the purpose, and canals were the only possible substi-

tutes. In February, 1825, the Legislature passed an "Act to provide for the internal improvement of the State by means of navigable canals." A few months before, it may be observed, the State of New York had completed and opened the Erie Canal, extending from Hudson River to Lake Erie, an event of the greatest possible interest to the whole Northwestern country, since it afforded an easy and cheap means of communication between Lake Erie and tide-water. The act of 1825 provided for two canals that should connect Lake Erie and the Ohio River: The Ohio and Erie Canal to unite the mouths of the Cuyahoga and Scioto Rivers; the Miami Canal, the mouths of the Maumee and Great Miami Rivers. At the extremities of these canals lie Cleveland and Portsmouth, Toledo and Cincinnati. These canals were built by the State. Still others were built by stock companies. Nor did the State rest here; it continued to add side-cuts and branch canals until the total canal mileage that she controlled amounted to about 900 miles, built at a cost of about \$16,000,000. In recent years considerable parts of the State canals, and all of those built by companies, have been abandoned, while the remaining parts are now little used. The railroad track has taken the place of the tow-path even on the banks of lakes and rivers; but in their time the canals added greatly to the progress, wealth, and prosperity of Ohio.

92. The Era of Railroads.—The next step forward in the way of transportation was the railroad. It is said that the first railroad west of the State of New York led from Toledo to Adrian, Michigan. It

was first operated by horses, and the locomotive put on it in 1837 was the first locomotive used in the West. Next followed the Mad River and Lake Erie road, which extended from Sandusky to Springfield, and from there to Dayton. The section of this road lying between Sandusky and Bellevue, sixteen miles in length, was opened in 1839. The Little Miami road, connecting Cincinnati and Springfield, was opened in 1848, and this road, together with the Mad River road, formed the first line of railway connecting Lake Erie and the Ohio River. The second such line, which united Cleveland, Columbus, and Cincinnati, was completed in 1851. In 1852 the Cleveland and Pittsburg road, was opened. The east and west roads came later. In 1895, there were 85 railroads in the State, with 12,754 miles of track, costing to date \$1,230,-381,000.

93. The Ohio-Michigan Boundary.—The Enabling Act of 1802 said the boundary of Ohio on the Michigan side should be so much of a due east and west line drawn through the southern extremity of Lake Michigan as falls east of a meridian drawn from the mouth of the Great Miami to the International boundary. This meridian, it will be remembered, is the western boundary of the State. The Constitution framed at Chillicothe the same year provided that, in case the said east and west line did not intersect Lake Erie, or should intersect it east of the Maumee River, then, with the assent of Congress, the boundary should be a straight line running from the southern extremity of Lake Michigan to the most northern cape of Maumee Bay, or rather so much of this line as lies east of the

afore-mentioned meridian.¹ Congress took no notice of this provision at the time, and, as the territory had not been surveyed, no one knew where the due east and west line would strike the lake, or whether it would strike it at all. In 1817 a Government surveyor by the name of Harris ran the boundary in accordance with the Chillicothe provision, and a little later another one by the name of Fulton ran it on the east and west line. These are known as the Harris and Fulton lines. Between the two lay a piece of land five miles wide on the Indiana end and eight miles on the lake end, containing 468 square miles. For a time the few inhabitants of this district seemed to care little whether they lived in the State of Ohio or in the Territory of Michigan. But a great public improvement brought a change in their views.

94. The Toledo War.—In 1832 Toledo was founded at the junction of the Miami canal, which was then in course of construction, and the Maumee River. The people of the young town, who wished to

¹ Judge Burnet, in his *Notes on the Early Settlement of the Northwest Territory*, thus explains the action of the Convention in relation to the boundary: "When the Convention was in session in 1802, it was the prevailing understanding that the old maps were correct, and that the line as defined in the Ordinance would be terminated at some point on the strait far above the Maumee Bay, but while that subject was under discussion, a man who had hunted many years on Lake Michigan and was well acquainted with its position, happened to be in Chillicothe, and in conversation with some members mentioned to them that the lake extended much farther south than was generally supposed; and that a map he had seen placed its southern bend many miles north of its true position. His statement produced some apprehension and excitement on the subject, and induced the Convention to change the line prescribed in the act of Congress," etc. Cincinnati, 1847, pp. 360-61.

reap the full advantages of the canal, ardently desired to live in Ohio and not in Michigan. In 1835 the Ohio Legislature extended the adjoining Ohio counties over the disputed strip lying between the Fulton and Harris lines, and Governor Lucas called out the militia to support the claim. On the other hand, Governor Stevens, of the Territory of Michigan, called out the Michigan militia to support the Michigan claim. There now ensued what is sometimes called Governor Lucas's War, and sometimes the Toledo War. Fortunately, the hostile forces were not anxious to spill blood, and before they had actually done so two messengers, who had been sent by President Jackson, arrived at Toledo and persuaded the two Governors to disband their forces and adjourn the dispute to Washington. Michigan was ready for admission to the Union, and she naturally incorporated the Ohio boundary of 1802, which was also the boundary given to her by Congress in 1805, in her Constitution, framed in 1835. In 1837 Congress passed an act for the admission of Michigan to the Union. This act gave Ohio the boundary that she claimed, and compensated Michigan by giving her the Upper Peninsula, which had thus far been considered a part of Wisconsin.¹

¹Still the Ohio-Michigan boundary is even now, in places, the subject of dispute. See *The Ohio Archeological and Historical Publications*, Vol IV., the articles entitled "Boundary Line between Ohio and Indiana, and between Ohio and Michigan," and "The Ohio-Michigan Boundary Line Dispute." At the session of 1896, the Legislature of Ohio passed a resolution authorizing a joint commission to re-run and mark the line. It is supposed that the Legislature of Michigan will take similar action.

95. The State Capitals.—The Constitution declared that Chillicothe should be the seat of government until the year 1808, and that no money should be raised by the Legislature for the erection of buildings for its own accommodation until 1809. Ross County



OLD CAPITOL, CHILLICOTHE

had already, in 1801, provided a Capitol, and this served the purpose as long as Chillicothe remained the Capital of the State. It was built of stone, was about sixty feet square, and was surmounted by a belfry and lightning-rod, upon which, it is said, the American eagle, with wide-spread wings, long did duty as a weather-cock.

In 1809 the Capital was removed to Zanesville. In 1812 the Legislature accepted a proposition made by the owners of the lands on the east bank of the Scioto River, opposite the town of Franklinton, to establish the Capital at that point. These owners offered to erect buildings and to provide grounds for a State House square and a penitentiary. The site was then buried in the forest. The name of the discoverer of America was given to the new city. And here the seat of government was removed in 1817. Before this, however, it had been changed from Zanesville back to Chillicothe.

96. The New Constitution.—Some of the defects of the Constitution of 1802 have been pointed out in a

previous chapter. As time went on these defects became more and more apparent, until at last a convention, consisting of 108 members, was called to revise the Constitution and adapt it to the needs of the people of the State. This convention, which sat first in Columbus, then in Cincinnati, adjourned finally March 10, 1851. On its submission to the people, the new Constitution was ratified by a majority of about 17,000 votes. In 1873-74 a third constitution was framed by a convention formed for that purpose, but when it was submitted to the people for their ratification it was rejected by a large majority. So the Constitution of 1851 still stands, but it has been frequently amended. Some of the leading features of this Constitution will be presented in the following chapters.

97. Politics.—We have seen that, in the last years of the Northwest Territory, the Federalists and Democratic-Republicans contended for the political mastery. In the admission of the State, the Republicans triumphed and the Federalists practically disappeared from the political field. The people of Ohio now adhered for twenty years to the party that they had chosen. In 1824 the State cast her electoral votes for Henry Clay. With the re-organization of parties soon after that time, the State politics became less stable. Ohio voted for Jackson, Cass, and Pierce, Democratic candidates for President, in 1828, 1832, 1848, and 1852; for Harrison and Clay, Whig candidates, in 1836, 1840, and 1844. From 1828 to 1856 the governors were about equally divided between the two parties. In 1856 Ohio cast her elec-

toral votes for Fremont, the Republican candidate, and from that year she has never failed, at a Presidential election, to vote with the Republican party. Of twenty-one gubernatorial terms since 1856, Republican governors have served seventeen terms, Democratic governors four. This, however, is counting Tod and Brough (1862 and 1864), who had been Democrats, and were elected on a so-called Union ticket, Republicans.

98. Growth of Population.—In 1800 the population of the district that was soon afterwards formed into Ohio was 42,160. While this number had somewhat increased by 1803, the State still stood at the bottom of the list when she entered the Union. In 1810 she ranked No. 13, in 1820 No. 5. In 1830 she reached the fourth place, and ten years later the third. This rank she continued to hold until 1890, when the phenomenal growth of Chicago compelled her to resign it in favor of Illinois.¹ Besides her own uninterrupted growth, Ohio has contributed largely to the population of other States. According to the last census, more than 1,000,000 Ohio-born people were living in States farther west. Twenty-nine of the 443 cities of the country having a population of 8,000 or more were within the limits of Ohio.

In 1890 the population 10 years of age and over engaged in the pursuit of gainful occupations was thus distributed:

¹ The population of the State at the successive censuses has been as follows: 1800, 42,160; 1810, 230,760; 1820, 581,295; 1830, 937,903; 1840, 1,519,467; 1850, 1,980,329; 1860, 2,309,511; 1870, 2,665,260; 1880, 3,198,062; 1890, 3,672,376.

Agriculture, fisheries, and mines.....	429,019
Professions	61,913
Domestic and personal service.....	255,289
Transportation	195,578
Manufacturing and mining industries.....	330,987

Total.....1,272,786

99. Growth of Wealth.— For many years Ohio stood third of the States in respect to wealth, as in respect to population. In 1890 she fell back to the fourth place, resigning third to Illinois. In that year the total wealth of the State was estimated at \$3,951,-382,384, or an average of \$1,076 *per capita* of the total population.

100. Agriculture and Mining.— In 1880 the total value of Ohio farms and farm improvements was greater than that of any other State. In 1890 she ranked below Illinois only. The value of such property in the State then stood at \$1,050,031,828. The total acreage of farm lands was 23,352,408, of which 78.5 per cent. was improved. The ratio of unimproved farm lands to the total was less in Ohio than in any other States except Illinois and Iowa. In the value of farm products, her rank was No. 4. More families occupied farms that they owned free from incumbrance in Ohio than in any other State in the Union. The same year she stood 4 in the total value of mineral products, \$26,653,000. In the production of coal her rank was 3, Pennsylvania and Illinois only excelling her.

101. Manufactures.— Ohio holds high rank as a manufacturing State. In 1890 she was the first State

of the Union in the value of wagons and carriages, saddlery and harness, manufactured; second in glass, iron, steel, and nails, agricultural implements, and roasting and grinding spices and coffee; third in ship-building, products of the foundry and machine shop, cooperage, women's clothing, and the products of printing offices; fourth in furniture, men's clothing, paints, paper, petroleum, and the products of flouring and grist mills. The State stood fifth on the list for capital invested in manufactures, the number of operatives employed, and the value of the output. The total manufactured products of the State were estimated at \$523,058,956, of which \$126,538,290 was in wages. In the manufacture of iron and steel Ohio possesses exceptional advantages. The ores of the Lake Superior region and the coals of Pennsylvania and West Virginia, and from her own mines, meet at her cities and towns on the shore of Lake Erie.

102. The State School Lands.—The original acts of Congress granting lands for common schools had no application to the Virginia Military District, the United States Bounty Lands District, and the Western Reserve. These three divisions of the State, amounting together to about 15,000 square miles, or three-eighths of the whole, were left unprovided for. Congress came generously to their relief by making them special appropriations of school lands, in equal measure with other parts of the State. These lands lay in the districts marked on the map of historical divisions "Congress Lands." When these appropriations had been made, one thirty-sixth part of the State, or something like 1,100 or 1,200 square miles, had been

devoted to common schools perpetually. The title to the lands was vested in the Legislature, which has sold them and set apart the proceeds for the intended object. Collectively, these proceeds are known as the Irreducible School Fund. In fact, however, there are many hundred individual funds. The three divisions named above have each one fund, while every Congressional township has its own fund. These individual funds are the proceeds of the school lands that belonged to the division or the township. The State has borrowed the money, on which it pays interest at the rate of six per cent annually. The total fund is \$3,534,826.78, and the total income from it for the school year 1894-95 was \$190,195. The manner in which this income is applied to the support of schools will be explained in a future chapter.

103. The State School System.—The first schools in Ohio were provided by private or co-operative enterprise. The State Legislature took no action in relation to the subject until 1806, and then only slight action. From that time to the present it has repeatedly legislated in respect to schools and education. A considerable stride forward was made in 1821, and again in 1825. At the first of these dates the first general school law was passed. At the second there was a "school" party and a "canal" party in the Legislature; one was intent on having schools and the other canals; and as neither party was able to carry its point alone the two joined their forces and so gave the State both schools and canals. But the longest stride forward in school legislation was made in 1853, when the present school law, in its essential

features, was enacted. This law was at one time called the Rice Law, from Hon. Harvey Rice, of Cleveland, who was active in procuring its passage through the Legislature. It has, however, been changed in many particulars. As a chapter will be given to the State School System in Part II. of this work, it will suffice here to state that Ohio ranks with the foremost States in respect to common school education. For the school year 1894-95 the total expenditures for public schools were \$13,805,105. There were 20,834 schoolrooms and 21,374 teachers, while the total enrollment in the schools was 817,990 pupils.

104. Colleges and Universities.—Ohio received three townships, or 69,120 acres of land, for University purposes. Two townships lay in the Ohio Company's Purchase, and they were devoted to the Ohio University, at Athens. On the other township, which was in the Symmnes Tract, was founded the Miami University, at Oxford. Instruction was given at Athens in 1808, but a faculty was not organized until 1822. Miami University opened its doors two years later. In 1862 Congress gave Ohio, as well as the other States, land or land scrip to the amount of 30,000 acres for each Senator and Representative in Congress, with which to maintain a college of agriculture and the mechanic arts. As the State then had 21 Senators and Representatives, she received the equivalent of 630,000 acres of land. This scrip, which gave the State legal authority to locate wild lands in the Western States, was sold and the money set apart as a perpetual endowment fund for the purpose named by Congress. To secure the location of the institution

within her limits, Franklin County gave a large sum for the purchase of a farm and the erection of suitable buildings. The name of this institution has once or twice been changed; it is now the Ohio State University. It was opened to students in 1873. The Legislature votes money for the support of these three institutions, and especially for the last one, which has the proceeds of one-tenth of a mill on the tax duplicate of the State. Besides these three universities, there are many other institutions of higher learning in the State. The Report of the Commissioner of Common Schools for 1894-95 contains the names of 38 such institutions, which together owned property valued at \$12,793,000, with 446 instructors, 5,734 students in college departments, and 725 graduates for the year.

105. Religion.—In 1890 Ohio ranked next below New York and Pennsylvania in the number of church organizations, church edifices, seating capacity of such edifices, and communicants. She also ranked below these States, and Massachusetts as well, in the value of church property. The number of communicants was 1,215,409, or 33.1 per cent. of the total population. It was distributed among the eight leading denominations as follows :

Catholic.....	336,114
Methodist.....	272,737
Baptist.....	68,033
Presbyterian.....	103,607
Lutheran.....	89,569
Disciples of Christ.....	54,425
Protestant Episcopal.....	17,711
Congregationalists.	32,281

106. Benevolent Institutions.—It has been said that Washington City alone of American cities takes precedence over Columbus in the size and number of its public institutions. Still there are many such institutions in Ohio that are not located at the Capital. No State holds a higher rank in the care that she takes of those unfortunate classes of persons who, in every highly civilized community, become, for education or support, in whole or part, a public charge. The names of the public institutions, with other information concerning them, will be found in another place. The General Hospital for the Insane at Columbus is the largest institution of the kind in the world.

107. The Place of Ohio in the Union.—The place of Ohio in respect to population and to wealth has been stated in previous paragraphs. From the first, she made an increasing contribution to the greatness and glory of the country. The Civil War raised the State to a still higher level of influence. Her sons and citizens now rendered the National cause the most distinguished services. The war over, Ohio continued to hold high ground. Two of her citizens in succession were Chief Justices of the United States. Two of her sons, also in succession, stood at the head of the army. Two more were successively called to the highest position in the gift of the people, that of Chief Magistrate, and a third, after one of the most remarkable contests in the history of the country, has just been elected to the same high office.

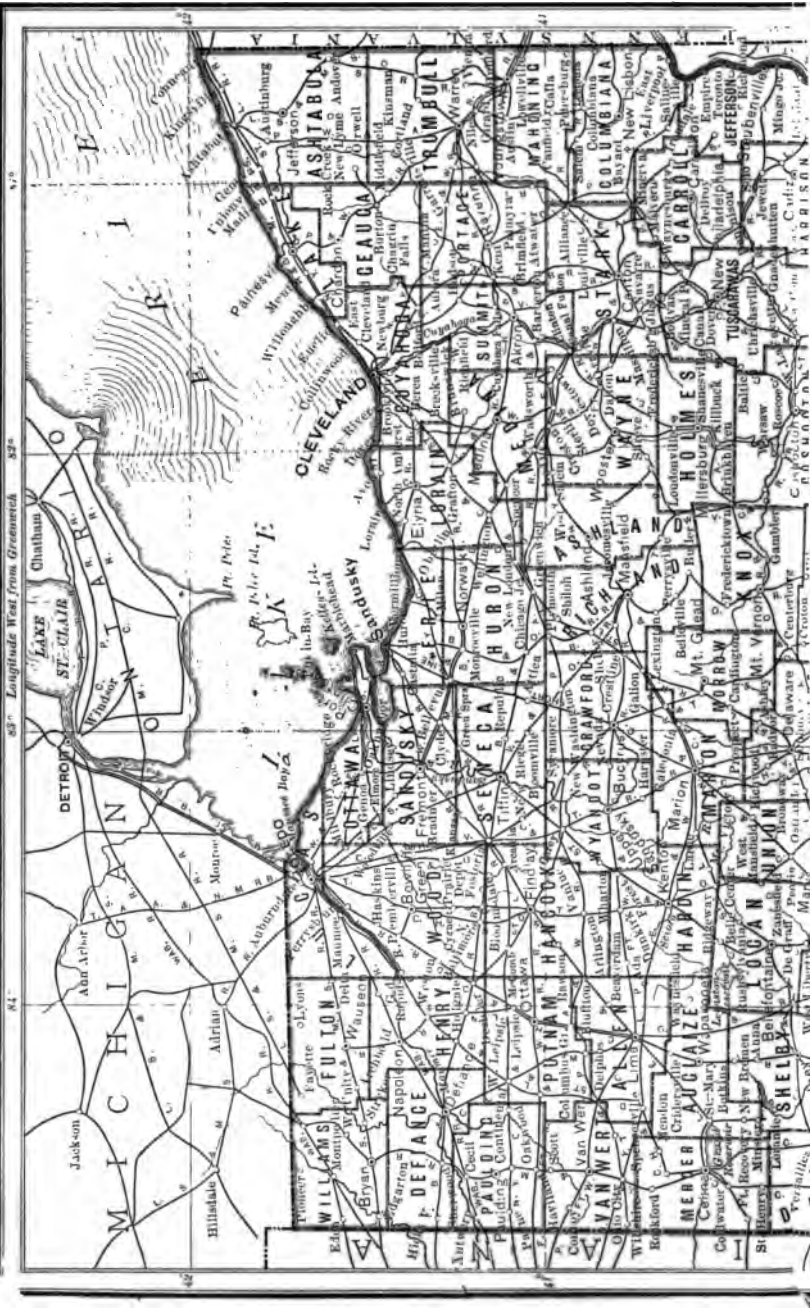
108. Causes of the Growth of the State.—The causes of the greatness of Ohio are not difficult to dis-

cover. First may be mentioned her great natural advantages. Her territory abuts upon the Atlantic Slope, and lies partly within the Lake Basin and partly within the Mississippi Valley. It is in close connection with the richest and most prosperous parts of the Nation. The lake on the north and the great river-system on the south, together with their connections, invite the freest communication in those directions; while all the great lines of railway uniting the Northwest and the Seaboard that lie within the limits of the United States run across her soil. The State abounds in natural wealth of great variety, affording admirable opportunities for agriculture, mining, and the arts of manufacturing. There is very little of the surface that cannot be reduced to profitable tillage. With the opening of the century, or about the time that Ohio came into the Union, population began to move in a constantly increasing stream from the East westward. The old States sent out their surplus people to found new States in the Great West. At a later day the swelling stream of foreign emigration set in. Ohio spread before this emigration, whether domestic or foreign, her almost unrivaled advantages. For many years she had no competitor for Western emigration. She lay right in the path of the largest and most valuable part of the westward movement. The people who participated in this movement could not go on their way without going over her soil, or passing by her towns on lake or river. The natural beauty of the State was celebrated by every visitor. The very name Ohio was musical to the ear of the pioneer. To thousands the appeal was irresistible. Then Ohio was

a free State—a fact that had much to do with her outstripping her older competitors, Kentucky and Tennessee. In due time the moral elements of civilization began to declare themselves: schools and colleges, churches, public institutions, the printing press, science and the arts; the labors of an intelligent, inventive, and moral population; great citizens and soldiers, wise legislators, governors, and judges, the development of a great civic life—all the essential elements necessary to constitute a great and growing commonwealth.

Such in outline is the story of Ohio. Many other topics could have been introduced, and those that have been handled could have been treated at much greater length. Enough, however, has been said to mark out and to illustrate the history of the State. It is a history of which the people may well feel proud, and that they should strive worthily to continue. It appeals with peculiar power to the interest and ambition of the young, and especially to the young in the public schools. We are now to turn away from the history of the State to study its government.





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PART II

THE GOVERNMENT OF OHIO

CHAPTER X

DEFINITIONS AND PRINCIPLES.¹

109. Society.—Men living together in human relations, or in relations natural to man, form society. The word is from the Latin *societas*, which means a union, communion, or association. Men can live *as men* only in social relations, *i. e.*, in society, with one another; for if they separated and became hermits they would tend to become like the animals in their way of living, and the race would finally perish. The famous saying that man has a social instinct or nature means that he tends to live with his fellow-men, in society. Society exists for the sake of its members, who develop as men, or make progress, only while they are thus bound together. It is only in society that men can enjoy their rights and do their duties.

¹ The topics presented in this chapter are abstract and dry. While they are essential to a good understanding of government, they are wholly unsuitable for introductory lessons. The teacher should not, therefore, require the pupil to learn this matter as formal lessons, but should show him how to use it for reference, as the several topics arise in the course of the succeeding chapters. For example, the paragraphs relating to Society, Government, Constitution, etc. The ideas presented in these special topics will be much better understood, and much more firmly retained, if they are approached in this way. When the book has been finished, the chapter may be studied as a whole to excellent advantage.

110. Rights.—Men have rights that they are entitled to enjoy, which may be divided into three groups.

1. Civil rights are the rights that belong to men as citizens of a State. The principal rights of this class are the right to life, liberty, happiness, and property; the right to pursue a chosen trade or profession, and to use the public instruments of society, as the highways, for individual purposes.

2. Religious rights relate to the conscience. They embrace the choice of a religious faith and the mode of religious practice.

3. Political rights involve participation in politics or in the affairs of government. The principal ones are the right to vote, or the suffrage, and the right to hold office.

111. The Origin and Relation of Rights.—Some of the above-mentioned rights spring out of man's nature, and are called natural rights. Others originate in the arrangements that society ordains, and so may be called artificial rights. Life, liberty, and happiness are examples of the first class; the suffrage and holding office examples of the other. All rights that belong to the individual, whatever their origin, may be forfeited through bad conduct. Thus, the murderer forfeits his right to life, and the thief his right to liberty. These several classes of rights are not always found together. Men who were denied all participation in the government have often enjoyed civil rights. Men who have shared directly in the government have not always enjoyed such rights. Still, in intelligent societies the three kinds of rights tend to hold together. For example, if the people participate in the govern-

ment by voting and holding office they are likely to see that civil and religious rights are maintained.

112. Duties.—Duties are things that men should do. They are inseparably connected with rights, and may be divided into the same classes. Wherever there is a right there is a duty, and wherever there is a duty there is a right. The state is bound to protect the citizen in his rights; the citizen is bound to obey the state, and to respect the rights of his fellow-citizens. Again, if the state gives the citizen a right to vote, the citizen is bound, not merely to use this right, but so to use it as to promote the common good of society.

113. The State or Nation.—A state is a society of men of a certain stage of advancement living together in the same territory for the promotion of their common good and advantage. To constitute a state, such a society must be free, or, as the saying is, it must be sovereign. It is an independent body politic—an expression which means that the society is in possession of full political powers and a separate, independent government. The word nation is also used to express the same idea. The members of such a society are known as citizens. France is a state or nation, and so are the United States. But the Dominion of Canada or Ohio is not a state in this sense, because it is not independent, but is only a member of a larger whole. Just what we mean when we say Ohio is a State, will be explained further on.

114. Government.—The controlling power or authority in society is called government. It is composed of the various persons or officers who make and

administer the laws, and so secure social order. It is universal; wherever men are found, society is found and government is found. Society cannot exist without government any more than men can exist without society. Government may be very simple and rude, as among the North American Indians, but it always exists wherever men live together in social relations. The government of a civilized society, or a state proper, is called civil government.

115. The Duties of Government.— These are two in number. One is to protect men in their rights and compel them to do their duties, in society. This duty is commonly called the maintenance of justice. While it is essential to the existence of society it is not sufficient for its purposes. Roads must be built, harbors must be constructed, mails and post-offices must be provided, science, arts, and good morals must be promoted, and education be furnished for the people. These things are comprehended in progress but not in justice. Hence we may say that to secure justice to men and to promote their progress are the two ends of government. Thus, government exists for society, which again exists for the sake of its members. Government is necessarily coercive; it must have power to enforce its will on the members of society or it is no government at all.

116. Kinds of Government.— The old division of government is threefold.

1. Monarchy is government by one man, a monarch. If this one man is not restrained by some power higher than himself, as a constitution, the government is an absolute monarchy; if he is so

restrained, it is a limited monarchy. Russia is an example of the one, Germany of the other.

2. Aristocracy means government by a few persons who are, or at least are supposed to be, persons of high birth and position.

3. Democracy means that the people govern themselves directly. The people, or so many of them as have political rights, come together in one place to discuss and determine public matters. Ancient Athens was a democracy, and so, for a time, was the Colony of Plymouth.

Any one of these three kinds of government may be good; any one may be bad. Monarchy is the simplest and the most easily carried on, but it tends to despotism and the oppression of the people. Aristocracy is less simple than monarchy, but it tends, perhaps even more directly, to the same abuses. Democracy is the most complex of the three, because so many minds and wills must be consulted, and, under some conditions, it tends to turbulence and faction. Still more, democracy is wholly unfitted to the needs of a large state; for men in great multitudes cannot come together at one place to transact public business. Of the three kinds, monarchy, as a rule, is best suited to the needs of large states.

117. Mixed Government.—Most governments are what may be called mixed. That is, two or more of the three elements mentioned are found blended in them. Great Britain is a good example of such a government. The hereditary king or queen stands for the monarchical principle. The hereditary House of Lords is an aristocratic body. The elective House of Commons

represents the nation, or the British people. And these three—the King, Lords, and Commons—comprise the government.

118. Representative Government.—A representative government differs from those that have been named above. Here the whole people govern themselves, and are not governed by one man, as in a monarchy, or by a few men, as in an aristocracy. At the same time, they govern themselves indirectly, by their chosen representatives, and not directly, as in a democracy. Under proper conditions, representative government avoids the evils that commonly attend monarchy, aristocracy, and democracy. The principle of representation is now found in the governments of all the most civilized states.

119. The Republic.—The republic is the purest form of representative government. It is what President Lincoln called “government of the people, by the people, and for the people.” The government of the United States is a republic; the governments of the forty-five States are also republics. The republic is also sometimes called the commonwealth.

120. Centralized and Dual Governments.—In a centralized government all ultimate power is placed in one central political organization. Thus, the government that is seated in Paris is supreme in all things over France. Dual government, on the other hand, divides governmental powers between one central organization and local organizations. Thus, the government of the German Empire is dual or double; some powers are placed in the imperial government seated in Berlin, others are placed in the local governments

of the twenty-five states that make up the empire. In France there are indeed local authorities, but these are closely dependent upon the national authorities.

121. Federal Government.— One form of dual government is called federal government. A Federal Government, or a Federal State, is one in which the really national powers, or the powers that interest the whole country, are placed in a central or national government, while strictly local powers are placed in state governments. The United States have been such a government since the present Constitution went into operation, in 1789. Governmental powers are divided between the National Government, seated at Washington, and the State Governments, seated at the State Capitals. Thus, making war and peace, coining money, regulating commerce and foreign relations, the control of the army, the navy, and the postoffice, under our system, are National powers; while keeping the local peace, the punishment of offences against society—burglary, theft, and murder—and the maintenance of common justice between man and man are local or State powers.

122. The Sense in Which Ohio is a State.— It was remarked in a previous paragraph that Ohio is not a state in the original sense of that term. In other words, it is not an independent power or nation, like France, England, or the United States. But Ohio is a State in the sense of the last paragraph. It is one of the constituent members of the United States, or of the Union of States that together comprise the American Nation. This is a special sense of the word state, which, in this work, is always marked by the

use of the capital letter. The States, or members of the Union, hold very important places in the government of the country. Within their own proper sphere, they are independent of the Union, but in the most important respects they are dependent upon the Union, or the United States. Many of the essential attributes of independent nationality are expressly denied them by the Constitution of the United States.¹ Hence to call them Sovereign States, as is sometimes done, is to commit a serious mistake.

123. Two Jurisdictions.—Since Ohio is one of the United States, or a member of the Federal Union that bears that name, it follows that all the citizens of the State are also citizens of the United States, and that they are therefore subject to two governments. One of these is the Government of the United States, the other the Government of Ohio. Generally speaking, the two governments do not overlap; they are so nicely adjusted that they do not conflict or clash; or, to speak more plainly, the citizen is called upon to obey the United States in some things, the State of Ohio in other things. Professor Bryce, the eminent English writer on our system of government, has expressed these facts by saying that the American has two loyalties and two patriotisms.

124. The Three Powers of Government.—The characteristic feature of all regular governments is that they are governments of law. To tell what they may or may not do as members of the state, citizens look to the law and not to the mere arbitrary will of an irresponsible ruler. This fact enables us to divide

¹ See particularly Article I., Section 10.

government into three distinct powers or functions. These are making the law, administering or executing the law, and interpreting and applying the law. These powers are called the Legislative, Executive, and Judicial powers. They may all be centered in one person or organ; they may be distributed to different organs. In the most progressive states, the three powers are distributed to three different branches or departments of government, known as the Legislature, the Executive, and the Judiciary. These departments are more or less separate and distinct, and in the United States, both in the National Government and in the State Governments, they are almost wholly separate and distinct. One department makes the law, a second administers it, a third interprets it and so declares what it is. In this way liberty is secured. A great American statesman one said: "The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny."

125. Laws.—A law is a rule laid down by some superior authority to govern the actions or conduct of men in society. In a republican state this supreme authority is the people themselves, who are considered the fountain of all political power. Most laws, however, are not ordained directly by the people themselves, but by the government, or the representatives of the people. Thus, the laws of Ohio are the rules which the government of the State imposes on the people of the State in order to regulate their con-

duct. How these laws are made, will be explained hereafter.

126. Constitutions.—A constitution is a law that determines the general features of the government of the state or nation that ordains it. It is therefore called the fundamental law and the organic law. It underlies all other laws. The main differences between the Constitution of Ohio and the so-called Laws of Ohio is this: The Constitution prescribes how the laws shall be made and administered, and what their general character shall be; the laws prescribe the rules that directly relate to the people of the State. Again, ordinary laws are made by the Legislature, the Constitution by the people themselves. The laws can be changed quickly and with ease, if the people desire it; while the Constitution can be changed but slowly and with considerable difficulty. Accordingly, the Constitution of the State is a peculiarly permanent and binding kind of law.

127. Civic Teaching.—A citizen is a member of the State. Civic means pertaining to the citizen or to the State. Civic teaching is teaching whatever pertains to citizenship. In other words, it is teaching the rights and duties of the citizen in the State. Such teaching should be provided in all schools for pupils old enough to receive it. Every teacher should feel it to be his duty to teach the pupil his rights and his duties in the society in which he lives. In particular, should the teacher emphasize the all important fact that rights and duties cannot be separated; that rights imply duties, and duties rights; that where right is found duty is found, and *vice versa*.

CHAPTER XI

THE TOWNSHIP

It would be difficult for the State Government seated at the Capital City to direct in detail those public affairs that vary in different localities. Moreover, it is a matter of pride to a liberty-loving people for each community to control for itself, through officers chosen from its own citizens, such affairs as are peculiarly its own. Therefore the State Government, authorized by the Constitution,¹ recognizes several ranks or orders of communities which exist within its borders, as possessing, each in a prescribed sphere, political powers, or powers of government, just as the National Government recognizes the States themselves as possessing such power. The different orders of political bodies that exist in the State of Ohio, are the State Government, the County, the City, or Municipal corporation, and the Township. Every citizen of Ohio is necessarily subject to them all except the municipal corporation. He may live outside of any town, but not outside of a township or county. The township may be defined, then, as the lowest order of political body known to the State.

128. Original Surveyed and Civil Townships.—By original survey, most of the lands of Ohio were laid off into townships five miles or six miles square. In the larger part of the State these townships became

¹Article X.

the recipients of school lands, and they are still the basis of apportionment in the distribution of the common school fund. Aside from this they have no significance. The surveyed townships are not identical with the political or civil township, although the two generally correspond geographically. Power to lay off civil townships is vested in the County Commissioners. The Legislature also creates new townships in exceptional cases. Since the whole State has long been divided into such divisions, new townships can be created only by the division or union of old ones. The political township, like every other form of political community, is a public corporation,¹ and is capable, in the person of its officers, of suing and being sued in the courts, and of receiving, holding, and disposing of property.

129. Township Officers.—The officers of the township are the trustees, clerk, treasurer, justices of the peace, constables, assessor, and road supervisors. These are regularly elected on the first Monday in April of each year, and, with the exception of the Clerk and Treasurer, assume office within ten days from that time. Before he can enter upon his duties, a newly elected officer must qualify. This means that he must take the oath of office and give a bond. By giving a bond an officer binds himself to pay a stated sum if he fails faithfully to discharge the

¹A corporation is the creation of law. It is composed of individuals, but it lives on without losing any of its powers or privileges; as the individuals die or pass out of it, other individuals take their place. Corporations are public and private. A State, county, township, or city is a public corporation; a railroad company or a steamship company a private corporation.

duties of the office. The bond must be in writing, and must bear the signatures of competent persons who engage to pay the money should the officer fail to do so. These persons make the bond secure and are called sureties. The sums for which township bonds are given are small, being in some cases less than \$1,000. Most vacancies in office arising between elections are filled by appointments made by the Trustees. If a trusteeship falls vacant, it is filled by an appointment made by that Justice of the Peace who holds the oldest commission. If the office of a justice of the peace falls vacant, it cannot be filled except by a special election. Township officers receive compensation as follows: Trustees and supervisors of roads, \$1.50 for each day devoted to official business; treasurer, two per cent of such township funds as he disburses, also one per cent of the school funds; assessor, \$2.00 for each day devoted to the public business; clerk, constable, and justice of the peace, such fees as are prescribed by law.

130. The Trustees.—There are three Trustees elected for three years; one is elected and one goes out of office every year. They hold meetings at fixed intervals for the transaction of official business. Their duties are chiefly executive, but they have some legislative functions.

The executive duties of the Trustees are to represent the township in suits at law, to manage its public property, to order the disbursement of its moneys, to secure the relief of its paupers, to order sanitary precautions, to direct the building of such bridges and the opening and repair of such roads and ditches as

do not lie in the province of county officers, and to act as fence-viewers. They must provide a public library, a town hall, and a cemetery, if the electors of the township vote in favor of taxation for such purposes. The law fixes the first Monday in March as the date of their meeting for annual settlements.

Their legislative duties are to levy the township taxes and lay out the road districts. They have authority to anticipate the township revenue to be derived from taxes by selling township bonds. A bond, in this sense, is a paper drawn up in legal form, in which the maker of the bond binds himself to pay the bearer, or some other person, at a certain time, a stipulated sum of money, interest to be paid in the meantime at a fixed rate. Selling bonds is really a process by which the seller borrows and the buyer lends money for the stated time at the stated rate. All officers with authority to levy taxes have power, with certain limitations, to issue bonds.

131. The Clerk.—The Township Clerk is elected for the term of two years, and assumes office on the first day of September following his election. His duties may be divided into two principal groups—those pertaining to the township records and those pertaining to the township accounts. He keeps four sets of records: A record of the proceedings of the Board of Trustees, whose secretary he is; a record, with detailed descriptions, of roads and ditches; a record of the marks and brands by which the owners of domestic animals identify their property; and finally, a record of the official oaths and of the bonds of the township officers. He also notifies such officers of their elec-

tions, summons them to qualify, and has power to administer the oaths of office. As an accounting officer, he keeps an accurate and detailed account of the official debts, receipts, and expenditures of the Trustees. He countersigns every order drawn by them on the Treasurer. His knowledge of the township finances is a safeguard against error or dishonesty on the part of that officer. It is a wise provision to have the state of the public treasury registered by an accounting officer who is independent of the Treasurer. In city, county, and State, the accounting officers are therefore of great importance to the public. The Clerk is also clerk of the township school district.

132. The Treasurer.—The Treasurer's term of office is two years, but he cannot be elected the same year as the Clerk. He enters upon his official duties on the first of September following his election. He is the custodian of the township funds. He may deposit these in a bank, or keep them in a suitable safe. He disburses the moneys, but only on orders drawn by the Trustees and countersigned by the Clerk. He must keep an accurate account of receipts and expenditures. The moneys in his keeping, as well as his accounts, are liable to inspection at any time by the Trustees. He is also the custodian of the official bonds of the other township officers. The Township Treasurer is also treasurer of the township school district.

133. The Justice of the Peace.—The number of justices in a new township is first fixed by the Court of Common Pleas. Afterwards the number may be increased or decreased by the Probate Court, on due

notice being given. In most townships there are two or three. As this is one of the three township offices that continue to exist after a township has been merged in a city, there are in such cases a larger number. For Cincinnati and Cleveland the law fixes the number at five. In these cities, the office is a salaried one, justices in Cincinnati receiving \$2,500 a year, and in Cleveland \$1,800. The term of office is three years. The Justice of the Peace is the only township officer who is commissioned by the Governor of the State. He cannot enter on his duties until notice of his election has been sent to the State Capital and his commission has been received. He is a conservator of the public peace, and may cause the arrest of any person charged with violation of the same. He may administer oaths and take acknowledgements of deeds and other written instruments. He may solemnize marriages. Still further, he holds the simplest form of court of justice that is known to the law of the State. The kinds of cases that he has authority to try, are described in the chapter on the Courts.

134. The Constable.—Ordinarily there are one or two constables in a township, and they are elected for a term of three years. However, when the maintenance of the public peace demands it, any qualified voter may be sworn as constable for the time by a justice of the peace. In Cincinnati constables are not elected but are appointed by the Justices of the Peace. In that city also they receive a regular compensation at the rate of \$3 a day instead of fees. The chief duty of the Constable is to assist the Justice in preserving the public peace. He serves the warrants

and other legal processes that the Justice issues, makes arrests, and subpoenas witnesses. He may arrest without a warrant any person whom he discovers in the act of violating the law. He is the ministerial officer of the Justice's Court. He is also peace officer throughout the county, and may be called upon to serve warrants, subpoena witnesses, etc., for the county courts. On election day, the Constable assists in preserving order at the polling places.

135. The Assessor.—The Assessor is a very familiar officer, for his duties require him to visit every household in the township or ward. He is elected for one year. His principal business is to list, or value, property that is subject to taxation. All the assessors in a county are under the orders of the County Auditor, which officer prepares the tax-list. Immediately on assuming office they are instructed by him as to the methods of performing their duties and are furnished with blank forms. At the expiration of a month they make their returns. Besides their duties in relation to the processes involved in taxation, assessors also assist in collecting the State statistics. In connection with listing property, they enroll all persons liable to military service, and collect facts concerning agriculture, manufactures, and other industrial interests; also social facts of many kinds, as the increase of population, and the number of blind persons, cripples, deaths, marriages, etc. These statistics they return to the County Auditor, who sends them to the Bureau of Statistics at Columbus.

136. The Supervisor of Roads.—Every township is divided into road districts by the Board of Trustees,

and one supervisor is chosen annually for each of these districts. The duties of this officer are to open all public roads and highways which are ordered in his district by the Trustees, and to keep the same in repair and free from obstructions. Any person charged with a road tax may pay the same in labor on the public highways at the rate of \$1.50 a day.

137. The Township Schools.—The subject of common schools in the township is discussed in the chapter on the School System of the State. The members of the Township School Board are not township officers, since they are elected in the sub-districts into which the township is divided, each sub-district holding its own election. The relations of the Township Clerk and the Township Treasurer to the School Board have been already stated.

138. The Township and the Municipality Established within Its Borders.—When the limits of a township become identical with those of a municipal corporation, the offices of township trustee, clerk, and treasurer cease to exist, and the duties pertaining thereto are performed by the municipal councilmen, clerk, and treasurer respectively. On the other hand, the offices of justice of the peace, constable, and assessor are continued with an increased number of incumbents. When a municipal corporation lies within a township, the officers of the corporation, such as councilmen, mayor, and marshal, perform within its limits the duties which are performed by the corresponding township officers outside of such limits. But the township officers proper act in the township and municipality alike. Once more, as the

citizens of the corporation enjoy the benefits of the township government, except in case of the schools, they pay township taxes and take part in the township elections.

139. The Township, the County, and the State.

—Since the State recognizes a series of communities endowed with governmental powers, it is necessary that each community, while enjoying a limited independence, shall be subordinate to the community that stands above it in the series. County officers must have authority over townships, since townships compose counties, while State officers must have authority over both counties and townships. On the other hand, it is convenient for the officers of the higher political communities to perform their duties that pertain to the lower ones through the officers of the lower. Thus, the various governing authorities, while distinctly separate for many purposes, are intermingled for other purposes. These relations will be many times illustrated as the higher authorities of the State Government are described in the course of this work.

CHAPTER XII

THE COUNTY

The county ranks next above the township in the series of political corporations that are endowed with limited governmental powers. The counties of a State are formed by the State itself in a manner prescribed by its constitution or laws. The existing counties of Ohio, 88 in number, were formed before the present Constitution went into operation, and their legal existence is therefore assumed. The oldest of these counties is Washington, formed in 1788; the youngest Noble, formed in 1851. The importance of the place that the county holds in the State governmental machinery, can best be shown by describing the duties that the county officers perform. First, however, it will be well to describe the way in which new counties may be formed.

140. The Formation of New Counties.¹—The General Assembly first passes an act creating the new county and defining its boundaries. But as the whole State is already divided into counties, no new county can be formed without taking its territory from one or more old ones. The second step is to submit this act to the qualified electors of all the counties that will be affected. This must be done at the next general election after its passage. If a majority of all the electors voting at this election, in each of the

¹ See the State Constitution, Art. II., Sec. 30.

counties, vote for the act, then it is adopted, and the new county will be formed. There are, however, two or three important rules to be observed. No new county shall contain less than 400 square miles of territory; nor shall any old county be reduced below that size. Still, any county that contains 100,000 inhabitants may be divided, regardless of this rule, provided a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within any county shall be divided, nor shall either of the divisions of a county that is divided contain less than 20,000 people. All laws changing county lines, or removing county seats, must also be submitted to the voters of the counties affected for their approval.

141. The County Seat.—The county seat may be called the capital of the county. Here are located the principal county buildings, as the court house and the jail. Here the more important county business is transacted, and here certain county officers reside during their term of office.

142. The County Officers.—The regular county officers are the commissioners, auditor, treasurer, recorder, surveyor, infirmary directors, clerk of courts, sheriff, coroner, prosecuting attorney, and probate judge. These are elected for terms of different lengths at the general election held annually on the Tuesday after the first Monday in November. The Probate Judge enters upon his duties on February 9 next after his election; the Clerk of the Common Pleas Court, on the first Monday in August; the Treasurer, on the first Monday in September, and the Auditor, on

the third Monday in October. With these four exceptions, county officers assume office on the first Monday in January.

143. Oaths, Bonds, Vacancies, and Compensation.—County officers must qualify by taking an oath, and by giving a bond for the faithful discharge of their duties. The sums in which bonds are given are generally limited by statute, but the precise sums are determined by the Board of Commissioners, and vary in different counties. In Hamilton County they are as follows: Commissioners, Infirmary Directors, and Probate Judge, \$5,000 each; Auditor, \$20,000; Treasurer, \$1,000,000; Recorder and Surveyor, \$2,000 each; Clerk of Courts and Sheriff, \$40,000, each; Coroner, \$15,000; Prosecuting Attorney, \$3,000. Still further, no county officer can perform his official duties until he has received a commission or certificate from the Governor. Vacancies occurring before terms of office have expired are filled in most instances by appointments made by the County Commissioners. If a vacancy occurs in the office of commissioner, it is filled by an appointment made by the Probate Judge, Auditor, and Recorder. The compensation comes principally in the form of fees, and varies according to the population of the county and the amount of business to be transacted. In some counties an office may bring a fortune to the incumbent, while in others the same office hardly insures a livelihood. There has been some recent legislation looking to abolishing the fee system and substituting fixed salaries. Thus, in Cuyahoga County the Treasurer receives \$7,000, the Auditor \$5,000, the Recorder \$4,500, the Probate

Judge and Judge of the Court of Insolvency \$5,000 each, and the Coroner \$2,500. The other officers receive both a salary and a *per centum* of the fees collected. In many instances it is impossible for the regular incumbent of an office to discharge all the duties thereof, and the law provides for the appointment of deputies.

144. The County Commissioners.— There are three Commissioners in every county elected one a year for a term of three years. There is considerable resemblance between their duties and those of the Township Trustees. They are required to meet once in three months at the county seat. The County Auditor is their secretary, and his office in the Court House is their usual place of meeting. The president is the Commissioner whose term of office first expires. The Board of Commissioners is both a legislative and an executive body. As executive officers, they are responsible for the condition of all important roads and ditches, and for the construction and repair of bridges. They are required to provide a court house, offices for the county officers, and a jail; also, under certain circumstances, an infirmary, an orphan asylum, and a children's home. They have the letting of all contracts for county buildings, furnishings, repairs, and service. They have some supervisory authority over other county officers, as shown in their annual inspection of the accounts of the Treasurer and Auditor. They hold and control all county property, as lands and buildings, and represent the county in suits at law. As legislators, their great function is to make the annual levy of taxes to meet county expenses.

They cannot enact laws or pass ordinances. In Hamilton County there is, in addition to the Board of Commissioners, a board of control. It consists of five members elected one annually for a term of five years. This Board has jurisdiction over the letting of contracts, the disbursement of moneys, and the assessment of taxes by the Board of County Commissioners.

145. Roads and Bridges.—The locating and opening of all continuous thoroughfares lies in the province of the County Commissioners. Upon petition for a new road submitted by the requisite number of landowners, these officers appoint persons to view the course of the proposed road, cause a survey to be made, and report the advisability of granting the petition. If the report is favorable, they announce that they will hear what interested parties have to say for and against opening the road; also that persons who claim that their property will be damaged on account of such opening may file claims for damages. Such claims, before they are allowed, are submitted to competent inspectors appointed by the Commissioners. If the awards of the inspectors are not satisfactory, the parties may appeal to one of the courts. If the road involves two or more counties, i.e., is a State road, there must be concurrent action by all the boards of commissioners involved. After the county officers have determined upon making a new road, Trustees representing all the townships interested meet together before the time for dividing their respective townships into road districts, and make arrangements for the division of the labor, which is performed under the oversight of the Supervisors. County Commissioners

may order the construction of macadamized roads and turnpikes. For this purpose taxes, in addition to the regular road tax, may be levied upon the property abutting on the proposed route. To raise money for repairs on turnpikes, toll gates may be erected. The authority of the Commissioners does not extend to thoroughfares that lie within a single township; these are opened and repaired by order of the Township Trustees. Neither does it extend to the opening, paving, and repair of streets within the limits of municipal corporations. This belongs to the province of the Council. The construction and repair of bridges is another important responsibility imposed upon County Commissioners. Large municipal corporations usually have their own bridge fund, and order such construction and repair through their council. Township Trustees order the construction of bridges and culverts where the cost does not exceed \$50, and such repairs on the same as can be made for \$10 a year. In all other cases, the County Commissioners let contracts for construction and order repairs.

146. The County Auditor.— This important officer is elected for a term of three years. He is the county book-keeper. His duties in preparing the tax-list and holding the County Treasurer responsible for the collection and distribution of taxes, are described in the chapter on Taxation. Suffice it here to observe, that he holds the Township Assessors subject to his directions in the listing of property, and is himself subject to the direction of certain State officers who have to do with taxation. The other most important capacity in which the Auditor serves is to check the

County Treasurer in accounting for the public moneys entrusted to his keeping. Besides the taxes, no money can be paid into the treasury save on the Auditor's draft made in favor of the Treasurer. The Auditor preserves a copy of every draft. The Treasurer gives to the person making the payment a receipt and deposits a duplicate with the Auditor. On the other hand, money is paid out of the treasury on the warrant of the Auditor. Quarterly, the Treasurer deposits with the Auditor all the warrants that he has paid and takes from him receipts therefore. Semi-annually, the Auditor and the Treasurer make a settlement. Besides these important duties, the Auditor performs numerous minor ones. He is the distributor of the State documents within the county. He is the official sealer of weights and measures, and he assists in the collection of statistics. In some instances the office is a lucrative one. Thus, for the year 1895 the Auditor of Cuyahoga County received \$11,872.44.

147. The County Treasurer.— This officer is the collector and custodian of the county funds. He receives the moneys paid into the county treasury, and disburses those that are expended. His accounts must show the amount and the date of every receipt and every expenditure and the persons concerned. As already shown, the County Auditor keeps an account concurrent with the Treasurer's. Receiving and keeping account of the taxes paid, is the Treasurer's principal duty. The rooms, with vaults and safes, which are assigned to him at the county seat constitute the County Treasury. In counties which contain cities of considerable size, the law directs that the

County Commissioners shall designate some bank as the depository of the county funds. The Treasurer must at all times hold his accounts and the moneys in his keeping open to the inspection of the Commissioners. These officers, together with the Auditor, are required by law to make an examination of the state of the Treasury at least twice a year. In addition, other examinations are directed by law to be made by inspectors whom the Judge of the Probate Court designates for this purpose. One of these comes at the time when the Treasurer, at the expiration of his term, turns over the office to his successor. The Treasurer's term of office is two years. His compensation varies greatly in different counties. For the year 1895, the smallest compensation received by a county treasurer was \$1,023.74; the largest \$18,078.33.

148. The Recorder.—The County Recorder is one of the officers who are elected for a term of three years. It is his business to keep official copies of all legal papers relating to the transfer, permanent or temporary, of houses and lands, to their encumbrance by mortgage, etc. He is required to keep, in forms minutely described by the law, four sets of records, viz.: of deeds, of leases, of mortgages, and of plats. Records of deeds, mortgages, and leases are necessary to the full protection of the holder. He derives his compensation from fees paid by those who bring papers for record. In 1895, the largest compensation received by a recorder was \$6,054.60; the smallest, \$677.32.

149. The County Surveyor.—The Surveyor's term of office is also three years. Like the Recorder's,

his duties tend to prevent disputes about the ownership of lands. He may be required to keep in his office, for the use of land-holders, a plat, with field notes, of the sections, quarter-sections, lots, etc., of the whole county. The County Surveyor, or his deputy, must make all surveys when the boundaries of lands are disputed in court, unless the parties interested shall agree in legal form upon some other surveyor or the court shall appoint another. Disinterested persons must be employed as chainmen. When it is necessary for him to take testimony concerning landmarks, the Surveyor has power to swear the witnesses. If this office becomes vacant between elections, the Court of Common Pleas, rather than the County Commissioners, fills it temporarily by appointment. The Surveyor is entitled to receive \$4 a day for his services, or to make charges according to the distances run.

150. The Infirmary Directors.—The control of the county poor house, or infirmary, when there is one, devolves upon the Infirmary Directors. There are three of these Directors, and they are elected, one each year, for the term of three years. They are a body corporate and politic. One Director is president of the board; another, clerk. Regular meetings are held once in three months at the Infirmary. This Board admits paupers to the Infirmary upon information from the Trustees of the townships where such persons have resided. It informs the County Commissioners of the amount of poor-tax that it is necessary to levy each year. It appoints a superintendent, who has the immediate oversight of the Infirmary community. He enforces the rules of the household, and keeps a

register of inmates received and dismissed, and of births and deaths. The Directors prescribe the rules for the government of the institution, provide a physician, examine the condition of the inmates and the management of the lands and buildings, and have general charge of the finances. They report semi-annually to the County Commissioners on the condition of the Infirmary, and once a year furnish statistical information of the institution that is transmitted to the Secretary of State.

Infirmary Directors are compensated for their services at a rate not to exceed \$2.50 for every day devoted to their official duties. There are special laws for Hamilton County on the subject of infirmary management.

151. The Coroner.—This officer is elected biennially. His principal business is to hold inquests upon the bodies of persons found dead within the county who are suspected to have died by violence. An inquest is a formal investigation over which the Coroner presides as a judge; its purpose is to find out whether the person's death was caused by violence or not, and if so to discover by whom the violence was apparently committed. The Coroner may compel witnesses to appear and testify, and must cause their testimony to be reduced to writing. When he has completed his investigation, he draws up a record of the facts in writing and subscribes the same. If he finds that the deceased came to his death by violence inflicted by another person or other persons, he must take measures to have such person or persons arrested. The Coroner's compensation is \$3.00 for

viewing a dead body and an allowance for expenses incurred.

152. The Sheriff.—The remaining county officers are all connected with the county courts, which sit at the county seat. There are three of these—the Court of Common Pleas, the Circuit Court, and the Probate Court. The Sheriff is the ministerial officer to these courts. He, or a deputy, must attend regularly at the Court of Common Pleas and the Circuit Court. He serves all subpœnas issued to witnesses and all other writs. He has charge of persons confined in the county jail, and brings them into court for trial. He summons jurors. He conducts sales of property ordered to be sold for the payment of debts. He takes to the State penitentiary all persons sentenced to imprisonment or to death. He is also protector of the public peace throughout the county. He publishes notices of county and other elections, and aids in maintaining order on election day. In general, he stands in much the same relation to the county that the Constable does to the township.

The Sheriff's term of office is two years. His compensation is determined by the amount of business that he does. In 1895, the largest compensation received by a sheriff was \$7,524.76; the smallest, \$840.30.

153. The Prosecuting Attorney.—This officer is an attorney whom the people elect to act within the county as the legal counsel of the State in those cases at law to which it is a party, and which are adjudicated in the Common Pleas, Circuit, and Probate Courts. He is also legal adviser to all the county

officers, and may be required to furnish them written instructions touching points of law that relate to the discharge of their duties. He prepares the bonds of the county officers and sees that the signatures are made in legal form. He makes annually to the Attorney-General of the State a statistical report of the crimes prosecuted in the county. The term of office is three years. The compensation of prosecuting attorneys varies, having been for the year 1895 as little as \$500 in one county, and as much as \$3,785 in another. If this office becomes vacant between elections, a temporary appointment is made by a Judge of the Court of Common Pleas. In counties which contain large cities, the prosecuting attorneys have assistants appointed by the judges of the courts. Hamilton and Cuyahoga County have also a solicitor, who does a part of the work that in other counties devolves upon the Prosecuting Attorney.

154. The Clerk of the Court of Common Pleas.—This officer may be styled the Clerk of Courts; for he acts as clerk to the Circuit Court, when it sits in his county, as well as to the Court of Common Pleas. His particular duties will be described in the chapter on the Courts. Among his minor powers is that of administering oaths and taking and acknowledging written instruments of a legal nature. He furnishes annually to the Secretary of State a detailed report of the cases tried in the courts. He is elected for the term of three years. The highest compensation received by any Clerk of Court in Ohio for 1895 was \$5,893.97; the lowest, \$604.53. The compensation comes in the form of fees. If the office becomes vacant during an

unexpired term, the Commissioners appoint a clerk *pro tempore*.

155. The Probate Judge.—The Probate Judge transacts the business of the Probate Court. What this business is, will be explained in the chapter on the Courts. He is elected for the term of three years. His compensation is derived in part from fees and is dependent in part on the amount of business transacted. In 1895, it amounted in one county to \$9,269.25, and in another to \$882.26.

CHAPTER XIII.

THE MUNICIPALITY

156. Need of Municipal Corporations.—Wherever manufactures, trade, transportation, etc. are carried on extensively, a great number of persons is required to direct and perform the labor involved. For convenience, the families of such persons must live near where the business is transacted. Accordingly, inhabitants enough to form a great county are crowded into the area of a township, and a community is created for whose needs township and county governments are inadequate. There must be a local legislative power to enact such laws as a dense population renders necessary. There must be an executive power adequate to enforce these laws. And, again, the application of these local regulations to the conduct of the people calls for a special court of justice. Evidently every community with small territory and dense population needs a type of government that is endowed with more varied powers than the county, and is as complete in its parts as the State government itself. Therefore, the Constitution¹ authorizes the State Legislature to organize municipal corporations and to prescribe the necessary governmental powers.²

¹ Art. XIII., Sec. 6.

² A municipal corporation is created by the government for political purposes. It is subordinate to the State itself. Again, it may be defined as the inhabitants of a particular place or district, as a city or county, as organized under the law for the purposes of local civil government.

157. Forms of Municipal Corporations.—The different forms of municipal corporations are the city, the village, and the hamlet. The village is a city in process of development, having a smaller population and a less complicated government. The hamlet is merely a small community that has secured the right to elect a larger number of officers, and to have more extensive powers exercised by them, than the law allows to a township government. There is a method by which either one can advance to the next higher form on attaining to the requisite population. Cities must have at least 5,000 inhabitants. They are divided into two classes, which are sub-divided into grades, the first class into four grades, the second into seven.

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|---------------|---|--|
| First Class. | { | 1. Cincinnati. |
| | | 2. Cleveland. |
| | | 3. Toledo. |
| | | 4. Canton. |
| Second Class. | { | 1. Columbus. |
| | | 2. Dayton. |
| | | 3. Youngstown, Akron, Zanesville,
Sandusky, Steubenville, Ports-
mouth, Chillicothe. |
| | | 3. (a) Springfield. |
| | | 3. (b) Hamilton. |
| | | 4. All other cities except 4 (b). Ash-
tabula. |

The law prescribes for each grade of city a government different in some respects from that of any other grade. In matters of detail cities differ widely. It is

not possible, in this chapter, to do much more than to consider the general features of municipal governments. Cities of all grades hold their elections for local officers on the first Monday in April of each year.

158. The Charter.—The charter is the fundamental law of a city or municipal corporation. It bears the same relation to the city that the Constitution does to the State. It declares by what officers the various functions of government shall be performed, and defines the extent of the powers which it confers. The charter of any particular city consists of the statute or statutes that the law-making authority of the State has enacted to prescribe a government for the particular grade of city to which the one in question belongs. Cities of the same grade have the same charter. But every large city may be said to have a charter that is exclusively its own, because it belongs to a grade by itself.¹

¹ The original classification of the cities of Ohio rested on the number of their inhabitants, as determined by the census of the United States. The scheme was invented for the purpose of giving each important city a separate form of municipal government, and so of avoiding the constitutional provision in regard to uniformity of legislation. When an increase of population, as determined by the census, justifies the advancement of a city or other municipal corporation, the Secretary of State gives the authorities official information of the fact. Upon receiving this information, the municipal council, may, if it wishes, call an election, the question whether the city shall be advanced in the grade. If the council takes such action, the city is advanced in the grade. If not, the city remains in its present grade. These provisions are as seen in the constitution, edited by the Ohio Pro-

159. The Council.—The conduct of municipal government cannot be fully understood without taking notice of the ward. This is one of the districts into which a city is divided for the purpose of representation. Ordinances, or the rules of Government which relate only to the local welfare, are enacted by the Common Council. This is the municipal legislature. Most cities elect two councilmen from each ward. Cities of the first class formerly had a board of aldermen, which was the upper chamber of the legislative body, after the fashion of the State Senate; but there has been a tendency in recent years to abolish such boards. The subjects on which city councils are permitted by their charters to pass ordinances are many and varied. They pertain to the provision and control of streets, bridges, sewerage, water-works, gas-works, a fire department, the police department, sanitary precautions, public parks, public libraries, cemeteries, school houses, and other public buildings. They include also the regulation of weights and measures, amusements, travel and traffic, and the city finances. Because the affairs that demand the attention of the Councilmen are manifold, and it is impossible for each one to discover for himself in every instance what legislation is needed, a system of standing committees is created; that is, business is divided into departments, as the Department of Finance, of Streets, etc., and committees are appointed to investigate the business that comes up relating to each department and to report to the Council as a whole. The Council elects its secretary, who is called the City Clerk. He has the custody of

all books and records of the corporation, and makes a detailed record of all the proceedings of the Council, including copies of all ordinances and resolutions passed. Certain executive officers have seats in the Council, in order to secure to the government the benefits of intercourse between the legislative and executive branches. In small corporations, the chief executive, or Mayor, is *ex-officio* president of the body; but in the larger ones it elects all its officers. Regular meetings are held every week in the larger cities, but in most instances at longer intervals. A councilman's term of office is generally two years, but in Cincinnati it is three years. He qualifies by taking the oath of office

160. The Mayor.—The city is the only governmental body thus far found in which the supreme executive authority is vested in a single officer. This is the Mayor. It is his duty to insure peace and order throughout the corporation, and to that end he may employ the police force and summon troops to his aid. He has supervision over all his associate officers, can demand information concerning their departments, and institute proceedings against them for neglect of duty. His appointive power is extensive and highly important, covering the chief positions on the executive boards. He has a corresponding power of removal. He communicates with the Council by formal message, in which he sets forth the condition of municipal affairs, and recommends such measures as seem to him desirable. He is *ex-officio* member of important executive and supervisory boards. The Mayor is also a judicial officer. He holds regularly

the police court, in which are tried all cases involving violations of city ordinances ; also other cases of such nature as fall under the jurisdiction of a justice of the peace. But in the large cities the Mayor's judicial functions are exercised by the Police Judge.

161. Other City Officers.—The other customary city officers are the Treasurer; the accounting officer, sometimes called Comptroller and sometimes Auditor; the Prosecuting Attorney, sometimes called the Solicitor, and the Marshal, who is constable or sheriff to the Police Court. The functions of these officers can be inferred from what has been said of the similar county officials. But it is in place to observe here a fact that this list of officers suggests, viz.: that the city, though it is in theory inferior to the county, becomes in some instances quite independent of it. Its affairs sometimes become so much more important than those of the county in which it is located that the government of the latter is quite lost sight of.

162. Cleveland Cited as an Example.—In addition to those governmental departments that are filled by single officers, there are in municipal corporations manifold lines of business which are intrusted to executive boards. The intricacy of this phase of city government is greater or less, according to the population. Perhaps the best way to get a clear idea of the subject will be to describe the government of a particular city. Cleveland may be taken as an example.

First, the people elect a Mayor, Treasurer, Police Judge, Prosecuting Attorney of the Police Court, and Clerk of that court, as well as the Council. There are besides six departments, each of which has a director,

viz.: Department of Public Works, Department of Police, Department of Fire, Department of Accounts, Department of Law, Department of Charities and Corrections. Second, the directors of these departments are all appointed by the Mayor, with the advice and consent of the Council. Each of these departments is subdivided. The Mayor and the six Directors of Departments constitute the Board of Control. The Cleveland government is organized on what is called the Federal Plan. In addition to the officers and boards thus far mentioned, there are a Clerk of the Council, Commissioners of the Sinking Fund, Depository Commissioners, the Annual City Board of Equalization, the Decennial Board of Equalization, and the Board of Tax Commissioners. The persons who carry on the public business of a great city are numbered by the hundred, and the responsibility of making appointments is very great. Heads of departments are generally appointed by the Mayor; and subordinate officers by these heads. The government of Cincinnati comprises a still larger force of officers than that of Cleveland.

163. Growing Interest in City Government.—

In recent years, there has been a great growth of interest in city government, on the part both of individual citizens and of the public. As a result, many reforms have been made in various cities. One strong tendency has been to limit more than formerly the number of elective officers and to throw increasing responsibility on the Mayor and other central administrative officers. The present charter of Cleveland dates from 1891, that of Cincinnati from 1894.

CHAPTER XIV.

THE GENERAL ASSEMBLY—I.

We have now come to the consideration of that governmental body by whose authority all those that have been previously examined are created—the State itself. We have found a miniature copy of the State in the municipality, and it would be a profitable exercise to discover the points of resemblance and of difference between the two. In both the legislative power is mainly separated from the executive power. We shall now proceed to study the law-making branch of the State Government.

164. Senators and Representatives.—The Constitution vests the legislative power of the State of Ohio in a General Assembly, which shall consist of a Senate and a House of Representatives.¹ Senators and Representatives are elected biennially by the voters of their respective districts and counties. Their term of office begins on the first of January after their election, and continues two years. The regular elections of members of the General Assembly are held in the odd-numbered years, but special elections to fill vacancies may be ordered at any time.

165. Qualifications.—To be eligible to the office of Senator or Representative, a person must have resided in the district or county which he represents during the year immediately preceding his election,

¹ Art. II., Sec. I.

unless he shall have been absent on the business of the State or of the United States. No person is eligible who holds any office, either lucrative or honorary, under the Government of the United States, or any lucrative office under the Government of the State ; but this restriction does not apply to township officers, justices of the peace, notaries public, or officers of the militia. No person having public money in his possession can hold a seat in the General Assembly, until he shall have accounted for and paid such money into the treasury.

166. Sessions.—The legal duration of a General Assembly is two years, that being the term for which every member is elected. The Constitution provides for only one regular session of each Assembly, and directs that this shall begin on the first Monday in January of the even-numbered years. As a matter of fact, however, all the General Assemblies elected since the adoption of the present Constitution, with three exceptions, have held an adjourned session in the odd-numbered year of their term of office. The Governor has power, on extraordinary occasions, to call special sessions. The duration of a session is not limited by law, but is determined by each General Assembly according to the business to be transacted. It is, on the average, between four and five months. Neither House may adjourn, without the consent of the other, for more than two days, Sunday excepted, nor to any other place than that in which the two Houses are holding their meetings. The wisdom of this provision will be seen in the next chapter, where the method of enacting laws is described. Adjourn-

ments, *sine die*, must occur in both Houses at the same time. If they cannot agree upon a time, the Governor may declare them adjourned, but not to a later date than that fixed for the next regular session. All meetings of each must be public unless, in the judgment of two-thirds of the members present, secrecy is desirable. A quorum to do business in either House consists of a majority of the members elected to that House.

167. The State House.—The Constitution fixes¹ the seat of government at Columbus. The present Capitol, or State House, was completed in 1856. It covers about four and a half acres of ground, and includes, besides the Senate Chamber, Hall of the House of Representatives, the Governor's Rooms, and Chamber of the Supreme Court, some thirty-four rooms which are used by the numerous departments and the bureaus attached thereto, Portraits of the governors and other prominent men of the State adorn the corridors; in the rotunda is Powell's famous picture of Perry's Victory on Lake Erie.

168. Rights and Privileges of Members.—Senators and Representatives cannot be arrested during the session of the General Assembly, except for treason, felony, and breach of the peace. No member of either House shall be questioned outside of the House for anything that he has said in his place. Every member has a right to protest against any act or resolution, and his protest must be entered upon the Journal. Members receive a compensation for their services of \$600.00 for each year of their term of office,

¹ Art. XV., sec. 1.

and mileage for one round-trip between their places of residence and the seat of government.

169. Restrictions Upon Authority.—Certain restrictions are imposed by the Constitution upon the power of the General Assembly. It is forbidden to make appropriations of money for a longer period than two years. It is not permitted to pass retro-active laws, or laws impairing the obligation of contracts. It may enact laws declaring how officers shall be elected or appointed, but it may not exercise such power itself. One important exception to this rule is the appointment of United States Senators, which the National Constitution devolves upon the State Legislature. To keep the legislative and judicial branches of government separate, the General Assembly is denied all judicial power, except that the Senate is the court for the trial of all cases of impeachment. The Houses are the sole judges of the elections and qualifications of their own members.

170. Special Legislation.—It is a question how far the General Assembly is restrained from enacting laws which apply only to particular localities and special cases. The Constitution says: "All laws of a general nature shall have a uniform operation throughout the State."¹ The purpose of this clause is to secure uniform laws and government throughout the State; also to prevent the habit of thoughtless legislation that would result if members voted for measures indifferently, knowing that they would not apply to their own localities. Nevertheless, laws concerning the conduct of local governments have been

¹ Art. II., Sec. 26.

enacted in large numbers, some of which apply to single cities and counties, and the Supreme Court has sustained much of this legislation. As a result, nearly every large city has a method of government somewhat peculiar to itself, while city and county taxes vary widely, because of special legislation relating to the rate of taxation and the issue of bonds.

171. Apportionment of Representatives.—The manner of determining what territorial areas shall send members to the General Assembly and of fixing the number of members, is very sharply defined by the Constitution. For the House of Representatives, the ratio of representation is determined every ten years by dividing the number of inhabitants of the State, as ascertained by the last census of the United States, by 100. The territorial basis of representation is the county. Each county is entitled to one representative for each ratio, or each time it contains the ratio; if a county has a population equal to one-half of a ratio, it is entitled to one Representative; if it has a population equal to one and three-fourths ratios, it is entitled to two Representatives. If, on the other hand, the total population of any county numbers less than half a ratio, such county, during the period of ten years, is placed in a Representative district with that one of the adjacent counties which has the smallest population. If, at the beginning of a decade, any county that has been thus annexed for representative purposes is found to have a population sufficient for a separate district, it becomes such, provided that the county to which it has been attached is entitled to separate representation. The ratio determined in 1891

was 36,724, and the number of the House elected in 1895 was 112.¹ The ratio is determined by a board consisting of the Governor, Auditor, and Secretary of State.

172. Apportionment of Senators.—The ratio of representation in the Senate is ascertained by dividing the whole population of the State by 35. As ascertained in 1891, it is 104,924. The number of Senators at the present time is 37. The territorial basis is determined in a very simple manner. The Constitution groups all the counties in the State into specific Senatorial districts. In 1851 each of these was assigned one Senator, with the exception of Hamilton County, which had three. If it is found at the time of a Senatorial apportionment that a county which has been attached to another for the purpose of Senatorial representation, has a population equal to a full ratio, then such county becomes a separate district, provided that the one to which it has been attached is entitled to separate Senatorial representation. Likewise any county that has been a separate district, but has fallen in population below the ratio, is attached to that adjacent Senatorial district which has the smallest population.²

¹ The following more definite rule is laid down for securing the representation of fractions of ratios. If any county has, in addition to its complete ratio, or ratios, such a fraction as, on being multiplied by five, would equal one or more ratios, that county has an additional Representative in some, but not all, of the Assemblies elected during the decade. If the product of the fraction multiplied by five equals one ratio, the additional Representative is allotted to the fifth Assembly; to the fourth and third Assemblies, if the product equals two ratios; to the third, second, and first, if it equals three; to the fourth, third, second, and first, if it equals four. Art. XI., "Apportionment."

²To fractions of ratios the same rule applies as obtains for the House of Representatives.

This ratio also is ascertained by the Governor, Auditor, and Secretary of State.

173. Gerrymandering.— The purpose of the minute directions given by the Constitution is to prevent gerrymandering on the part of the General Assembly. This is a method of laying off electoral districts so as to give the political party that does the work a political advantage. It is done by putting counties or parts of counties whose voters are strongly of one party into one district, in order to secure districts adjacent that will be favorable to the other party. When a State Legislature is empowered to lay off the district, the dominant party often retains its majority for future sessions by grouping the voters of the opposite party in as few districts as possible. Districts are often formed with grotesque shapes. In Mississippi there was once a Congressional district like a shoe string, and in Pennsylvania one in the form of a dumb-bell. The Constitution of Ohio makes it impossible to divide a county for districting purposes. The wisdom of this is seen when the evils of gerrymandering are considered. However, in one respect the elections of Senators and Representatives in Ohio are not favorable to a true representation of the people. They are chosen at large in their counties and districts; or, in other words, the party which secures a majority elects all the members for the district or county, leaving the minority unrepresented.

CHAPTER XV

THE GENERAL ASSEMBLY—II

The Constitution directs that the mode of organizing the General Assembly shall be prescribed by law. It leaves each House authority to determine its own rules of procedure. Aside from appointing the Lieutenant-Governor of the State to be the President of the Senate, it vests in each House the power to elect its own officers. Art. II.

174. The Organization of the Senate.—On the first Monday in January, of the even-numbered years, at ten o'clock A. M., the Lieutenant-Governor calls the assembled Senators-elect to order, and appoints one of them clerk *pro tempore*. Then, as the roll of Senatorial districts is called, the Senators present their certificates of election and take the oath of office. Thereupon the Senate proceeds to elect the following officers: A president *pro tempore*, a chief clerk, a journal clerk, a message clerk, an engrossing clerk, an enrolling clerk, and a recording clerk, a sergeant-at-arms, and four assistant sergeants-at-arms. The only one of these officers who is a Senator is the President *pro tempore*.

175. The Organization of the House of Representatives.—The House of Representatives is organized at the same time as the Senate, and in a similar manner. The Secretary of State or the Auditor of State first calls the members to order. The House

elects its own presiding officer, who is called the Speaker; also a speaker *pro tempore*, a chief clerk, a journal clerk, a message clerk, an engrossing clerk, an enrolling clerk, and a recording clerk, a sergeant-at-arms, and three assistant sergeants-at-arms. The Speaker and the Speaker *pro tempore* are the only officers who are members of the House.

176. The Duties of the Presiding Officers.—The presiding officer in either House occupies the chair, has general direction over the Hall, and sees that the prescribed order of business and rules of procedure are adhered to. He signs all bills, addresses, and resolutions that are passed and writs that are issued. The Speaker of the House also appoints the standing committees, as well as the special committees. In this way he may exercise considerable influence upon the enactment of laws. In the Senate the standing committees are appointed by the whole body. The Speaker of the House has a right to vote on all questions, like other members, but the President of the Senate may vote only in case of a tie. This rule, however, does not apply to the President *pro tempore*. In the absence of the presiding officer from the chair, his duties are performed in all respects by the presiding officer *pro tempore*, or any member may be called to preside if necessary.

177. The Duties of Clerks.—The duties of the numerous clerks show how many details enter into the work of legislation. The Chief Clerk is reader to his House. All bills, resolutions, etc., must be read distinctly and fully. He attests all writs that are issued. The Journal Clerk keeps the Journal. This

is a detailed record of each day's proceedings, and it must be read to and be approved by the House. It is attested by the Clerk. The rules of order direct that it be read after each session. After the final adjournment, the Journals are published for distribution. The Message Clerk keeps a record of the stages of progress which bills have made in the order of business. He can give information at any time as to the status, or present condition, of any bill. The Engrossing Clerk makes an exact copy of each bill in the last form which it takes before its third reading. The Enrolling Clerk makes a copy of each bill after its passage by both Houses, and just before its inspection by the Committee on Enrollment. The Recording Clerk makes the final copies of bills after their signature by the presiding officers of the Houses. These copies are both deposited in the office of the Secretary of State. The Sergeant-at-arms keeps order in the halls at the direction of the presiding officer, has charge of the mail, stationery, and other appurtenances, conveys messages from one House to the other, makes such arrests of members as are ordered, and subpoenas witnesses.

178. Standing Committees.—To expedite business, each House has adopted a system of standing committees. This name is given to these committees because they continue through the whole Assembly. Their duties are to examine the bills that are referred to them, to propose amendments if necessary, and to report to the House on the wisdom of their being enacted into laws. The advantages of this system are very great. In the first place, it facilitates

the handling of bills. At the regular session of the General Assembly of 1896-'97, the number of bills that originated in the House of Representatives was 977; the number that originated in the Senate, 401. Of those originating in the House, 517 became laws; of those originating in the Senate, 186, making a total of 703 laws enacted during the session.¹ It would be impossible for the Houses to dispose of so many, unless they were guided by the recommendations of persons who had made special examinations. Again, the bills cover such a variety of subjects that it is impossible for one individual member to have intelligent opinions about them all. There are thirty-nine standing committees in the Senate, and forty-five in the House of Representatives. It is, therefore, necessary for each member to serve on several committees. The following lists of committees show the variety of subjects that come before the General Assembly.

179. Standing Committees of the Senate.—1. Judiciary; 2. Finance; 3. Municipal Corporations No. 1.; 4. Municipal Corporations No. 2.; 5. County Affairs; 6. Common Schools and School Lands; 7. Railroads and Telegraphs; 8. Roads, Highways, and Turnpikes; 9. Corporations other than Municipal; 10. Agriculture; 11. Privileges and Elections; 12. Public Works and Public Lands; 13. Benevolent Institutions; 14. Penitentiary; 15. Insurance; 16. Industrial School for Boys and Girls; 17. Ditches and Drainage; 18. Soldiers' and Sailors' Orphans' Home and School for

¹*General and Local Laws Passed and Joint Resolutions adopted by the Seventy-Second General Assembly* (Vol. XCII.) is a thick octavo volume of 858 pp.

Imbecile Youth; 19 Soldiers' and Sailors' Home; 20. Universities and Colleges; 21. Manufactures and Commerce; 22. Labor; 23. Mines and Mining; 24. Sanitary Laws and Regulations; 25. Fees and Salaries; 26. Federal Relations; 27. Military Affairs; 28. Fish-Culture and Game; 29. Public Printing; 30. State Buildings; 31. Public Expenditures; 32. Geological Survey; 33. Library; 34. Claims; 35. Medical Societies and Colleges; 36. Revision; 37. Enrollment (Joint-Committee); 38. Rules; 39. Taxation. A majority of the Senate committees consist of seven Senators, but some consist of five, while that on Judiciary contains eleven.

180. Standing Committees of the House.—1. Agriculture; 2. Asylums for the Insane; 3. Blind Asylum; 4. Boys' Industrial School; 5. Claims; 6. Common Schools; 7. Corporations; 8. Country Affairs; 9. Dairy and Food Products; 10. Deaf and Dumb Asylum; 11. Ditches, Drains, and Water Courses; 12. Elections; 13. Enrollment (Joint-Committee); 14. Federal Relations; 15. Fees and Salaries; 16. Finance; 17. Fish-Culture and Game; 18. Geology, Mines, and Mining; 19. Girls' Industrial Home; 20. Institution for Feeble-Minded Youth; 21. Insurance; 22. Judiciary; 23. Labor; 24. Library; 25. Manufactures and Commerce; 26. Medical Colleges and Societies; 27. Military Affairs; 28. Municipal Affairs; 29. Ohio Hospital for Epileptics; 30. Prisons and Prison Reform; 31. Privileges; 32. Public Buildings and Lands; 33. Public Printing; 34. Public Ways; 35. Public Works; 36. Railroads and Telegraphs; 37. Revision; 38. Rules; 39. Soldiers' and Sailors' Home;

40. Soldiers' and Sailors' Orphan's Home; 41. Taxation; 42. Temperance; 43. Turnpikes; 44. Universities and Colleges; 45. Working Home for the Blind. A majority of the House committees consist of seven members, but several consist of nine, while the committee on Judiciary consists of eleven, and the committee on Rules of five.

181. How a Bill Becomes a Law.—The customary steps by which a bill becomes a law are as follows :

1. Introduction by a member.
2. First reading by the Chief Clerk.
3. Put into the hands of the Journal Clerk.
4. Put into the hands of the Message Clerk.
- *
5. Second reading by the Chief Clerk.
6. Referred to Standing Committee.
- *
7. Reported upon to House by the Standing Committee.
8. Put into the hands of the Engrossing Clerk; time set for the third reading.
- *
9. Examined by the Committee on Revision.
- *
10. Third reading.
11. Amendments by motion, if any.
12. Vote taken.
13. Sent by Sergeant-at-arms to other House (if passed).

* Spaces stand for probable interval of a day or more.

14. Similar steps taken by the second House.

*

15. Enrolled (if passed) by the Enrolling Clerks of the Houses.

16. Examined by Joint Committees on Enrollment.

*

17. Reported in each House by Committee on Enrollment.

18. Signed in each House by presiding officer in the presence of the House.

*

19. Final copies made by the Recording Clerks, and signed copies deposited in the office of the Secretary of State.

182. Signature of Bills.—"The presiding officer of each House shall sign publicly, in the presence of the House over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the General Assembly."¹ This clause of the State Constitution providing for the signature of bills differs from similar provisions in most of the State Constitutions, in that it makes no mention of the Governor of the State. In Ohio that officer has never had a share in legislation. The presiding officer of either House affixes his signature to a bill immediately after the report of the Committee on Enrollment. When all the constitutional steps have been taken, the bill becomes a law or an act. The style of the State laws is, "Be it enacted by the General Assembly of the State of Ohio."

¹Art. II, Sec. 17.

CHAPTER XVI

THE EXECUTIVE DEPARTMENT

183. Executive Officers.—The Constitution declares that the Executive Department of the State Government shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor of State, Treasurer of State, and an Attorney-General. The General Assembly has, by statute, provided for numerous other officers and boards whose duties are of an executive nature, until the department has become much more extensive than the Constitution contemplated. The only officers of this latter group who are elected by the people are the Commissioner of Common Schools and the members of the Board of Public Works; the others are appointive officers. All of the executive officers who are mentioned in the Constitution enter upon their official duties on the second Monday of January next after their election. They are elected biennially for a term of two years, with the exception of the Auditor, who serves four years. The elections occur in the odd-numbered years, except that for Secretary of State. The Commissioner of Common Schools assumes office on the second Monday of July next after his election, and serves for three years. Members of the Board of Public Works are elected for three years, one assuming office annually on the second Tuesday of February. The amounts for which these officers give bond for the faithful discharge of their duties are as follows: Secretary of State, \$100,-

000; Auditor of State, \$20,000; Treasurer of State, \$600,000; Attorney-General, \$5,000; Commissioner of Common Schools, \$5,000; Members of the Board of Public Works, \$30,000 each. The Governor is not required to give a bond. All State officers are commissioned by the Governor. When a vacancy occurs before the expiration of any term of office, it is filled temporarily by an appointment made by the Governor. The rates of compensation are as follows: The Governor, \$8,000 a year; Lieutenant-Governor, \$800; Secretary of State, \$2,000, together with fees amounting to \$1,000; Auditor, \$3,000; Treasurer, \$3,000; Attorney-General, \$1,500, together with fees amounting to the same sum annually; Commissioner of Common Schools, \$2,000; Members of the Board of Public Works, \$800.

184. The Governor.—The principal functions of the Chief Executive of the State may be considered under four heads, viz.: His relations to the other executive officers, to the General Assembly, to the State militia, and to the pardoning of criminals.

1. He may require information from any executive officer concerning the condition of his department. He has large appointing power, extending to almost all executive departments that have been created by the General Assembly, and to the State benevolent and penal institution. All officers of the Executive Departments and of the public institutions submit to him annual reports. He is required to see that the laws are faithfully executed, and has power to advise that suit be brought against officers who have failed to discharge their duties.

2. He sends a message to the General Assembly at every session, setting forth the condition of the State and recommending such legislation as he thinks needful. As has been already explained, he has no share in legislation. Being denied the veto, any influence that he may exert upon the enactment of laws depends entirely upon the weight which his recommendations carry with the members of the Assembly and his personal influence. In connection with his message, he transmits the reports of the Executive Departments and public institutions. His power to summon and to adjourn the General Assembly has been already mentioned.

3. He is commander-in-chief of the State military forces, except when they are called into the service of the United States, and can call them forth to execute the laws of the State, to suppress insurrection, and to repel invasion. He commissions all officers of the militia and appoints his own staff. A staff in the military sense is a body of officers who are attached to the person of a commander, in distinction from field officers. The chief of the Governor's staff is the Adjutant-General.

4. He has power to grant reprieves, commutations, and pardons for all crimes and offenses except treason and in cases of impeachment. But he can not exercise this power in any instance until the State Board of Pardons has reported on the case. This Board meets once in three months to consider applications for pardons, commutation of sentences, and reprieves. After examining the facts, it transmits a full statement to the Governor, together with its judgment in the case. The

Chief Executive, however, may disregard the recommendation of the Board. Here mention may be made of the arrest of fugitives from justice. It is the Governor's duty to demand of the Chief Executive of any other State the surrender of any person who has fled from Ohio into such State to escape arrest for felony. When such fugitive has escaped to a foreign country, his surrender must be demanded by the President of the United States. Among the Governor's minor functions may be mentioned his *ex-officio* membership in several important executive departments. He is also keeper of the seal of State.

185. The Lieutenant-Governor.—The relation of this officer to the State Government is similar to that which the Vice-President of the United States sustains to the National Government. In case the Governorship becomes vacant, or the Governor is temporarily incapacitated, the Lieutenant-Governor fills the office for the remainder of the term, or until the disability has been removed. He is *ex-officio* President of the Senate; but when he is discharging the duties of Governor the President *pro tempore*, whom the Senate elects, acts in that capacity.

186. The Secretary of State.—This officer is, first, the custodian of the official copies of all laws and resolutions that have been passed by the General Assembly, and the distributor of copies of the laws, of the Journals of the General Assembly, and of the reports of the Executive and Judicial Departments. Secondly, the State Bureau of Statistics is a branch of his department. All statistics collected and reported by township assessors, school directors, prosecut-

ing attorneys, etc., come into his hands. From these sources, and from the reports of the departments, he compiles annually the State statistics and publishes them. Thirdly, he purchases and distributes all official stationery for the use of State officers and members of the General Assembly. He also provides the seals of office which the Governor, Judges, and other officers are required to use. Fourthly, he is State sealer of weights and measures, and supplies the county and city sealers with copies of the State standards. Fifthly, he files in his office all articles incorporating associations and societies. This the law makes necessary in order to invest such association or society with corporate rights. He also furnishes official copies of such articles of incorporation. Finally, the Secretary of State is State supervisor of elections, and will be considered in that capacity in the proper place.

187. The Auditor of State.—Although the State Auditor is a highly important officer, the resemblance between his duties and those of the County Auditor render it unnecessary to dwell upon them at much length. He is the bookkeeper of the State, and sustains the same relation to the State Treasurer that the County Auditor does to the County Treasurer. In the matter of receipts and disbursements of moneys, the same method obtains in order to secure concurrent accounts of the condition of the treasury. Settlements between the State Auditor and Treasurer are, however, more frequent than between the corresponding county officers. One important feature of the State accounts relates to the funds which the State holds in trust for various communities and public

organizations; for example, the school funds belonging to those townships and districts which were the recipients of school lands. It is the Auditor's duty to apportion the interest accruing from these funds among the bodies for which they are held in trust. In respect to taxation, it is his duty to make the apportionment of the State tax among the counties. He has supervisory authority over the methods of County Auditors. The State Auditor is also an *ex officio* member of various executive boards.

188. The Treasurer of State.—The custody and disbursement of the State moneys is entrusted to the Treasurer. The sum in which he gives bond, and the number of sureties required, are an indication of his responsibility. The exactness with which he is required to keep his accounts may be inferred from his relations to the Auditor. The rooms assigned to him in the Capitol, with the vaults and safes, constitute the Treasury of the State, and is the sole place of deposit for the moneys, notes, etc., which are in the Treasurer's custody. He must hold these, together with his accounts, open to examination by inspectors appointed by the General Assembly or the Governor.

189. The Attorney-General.—This officer is legal adviser to all the executive officers of the State, to the directors of the State public institutions, to the members of the General Assembly, and to the prosecuting attorneys of all the counties. His other important function is to prosecute in the Supreme Court all suits to which the State is a party. He represents the State in the lower courts as well, when required to do so by the Governor. On the direction

of the Governor, General Assembly, or other proper authority, he brings suit against State officers for failure to discharge their duties.

190. The Commissioner of Common Schools.— This officer stands at the head of the school system of the State. His duties are outlined in the chapter that deals with that subject.

191. The Board of Public Works.— The public works of the State comprise the canal system. The two canals, extending from Cleveland to Portsmouth and from Toledo to Cincinnati, are divided into three grand divisions, and each one of these is under the supervision of a member of the Board of Public Works. The Governor appoints a chief engineer, and the Board local superintendents who are put under the direction of the engineer. The Board fixes the toll rates and appoints toll-collectors and lock-tenders.

192. Minor Executive Departments.— Besides the Executive Departments that have been described above, there are still others of a minor character, the duties of which are indicated in a general way by their names. Some of the members of these departments are such *ex-officiis*; others are appointed for the purpose, commonly by the Governor. The following is a list of these departments, with other information concerning them:

State Board of Pardons: 4 members, length of term, 2 or 4 years.

Commissioners of Public Printing: the Secretary of State, Auditor of State, and Attorney-General,

Commissioners of Sinking Fund: the Auditor of State, Secretary of State, and Attorney-General.

Board of State Charities: the Governor and 7 other members appointed for 3 years.

Soldiers' Roster Bureau: the Governor, Secretary of State, and Adjutant-General.

Commissioner of Railroads and Telegraphs, 2 years.

Superintendent of Insurance and Inspector of Building and Loan Associations, 3 years.

Commissioner of Labor Statistics, 2 years.

Inspector of Mines: Chief Inspector, 4 years; 7 inspectors, 3 years.

Inspector of Work-shops and Factories: Chief Inspector, 4 years; 11 district inspectors, 3 years.

State Inspectors of Oils: two State Inspectors, 2 years; 30 deputies, 2 years.

Supervisor of Public Printing and Binding, 2 years.

State Library: the Governor, Secretary of State, and State Librarian. The State Librarian's term is 2 years.

Live Stock Commissioners: 3 members, 3 years.

Commissioners of Fish and Game: 5 members, 8 years.

Dairy and Food Commission, 2 years.

State Board of Health: 7 members, 7 years; the Attorney-General is a member *ex officio*.

Board of Pharmacy: 5 members, 8 years.

Canal Commission: 2 Commissioners, 2 years.

State Board of School Examiners: 5 members, 5 years.

State Board of Agriculture: 12 members, 2 years.

Agricultural Experiment Station: 3 members, 3 years.

Forestry Bureau: 3 members, 6 years.

Meteorological Bureau: 3 members.

State Geologist.

State Board of Veterinary Examiners: 3 members, 6 years; also 2 members *ex officio*.

State Board of Dental Examiners: 5 members, 3 years.

Board of Arbitration: 3 members, 3 years.

Free Employment Bureau: 5 superintendents, 2 years.

CHAPTER XVII

THE COURTS

193. The Judiciary.—The third primary power of government is the Judicial power. This is the power to apply the laws to the actions of men in society in so far as their actions involve the laws. But this cannot be done without exposition or interpretation. It is the business of the Legislature to make the laws; but, as the Judicial power expounds, or interprets them, it is called upon to declare what is law and what is not law. The Judicial power in Ohio is vested in the Judiciary, which is, accordingly, the third great department of the State Government.

194. The Courts.—The Judicial Department of Ohio, or the Judiciary, consists of a system of courts. A court is a tribunal established for the public administration of the laws. It is an organized body, with defined powers. It is composed of one or more judges, and is aided in the transaction of business by its own officers. These are attorneys, or lawyers, who present the cases submitted for trial; clerks, who record the acts and decisions and certify them, and ministerial officers, such as sheriffs and constables, who maintain order in the court-room and execute the commands of the court. Such a court sits at stated times and places for the transaction of judicial business. Again, the court proper is sometimes composed of two classes of judges; the judges

properly so-called and the jury. The duties of the judges and the jury respectively will be explained further on.

195. Cases or Causes.—A case, or cause, at law, is some state of facts which furnishes occasion for the exercise, by a court, of the judicial power. It is the business of the court to apply the laws applicable to the case to this state of facts. The object sought is to ascertain and to execute justice between man and man, or between individual men and the government itself. The peculiar business of a court, therefore, is to try cases. Such a case is also known as a suit, or a law-suit. Courts have no power to interfere with the actions of individuals outside of cases, causes, or suits. Cases are either civil or criminal, as will soon be explained.

196. Jurisdiction.—By the jurisdiction of a court is meant its power to hear and determine cases. If a court has such power, it is said to have jurisdiction; if it has not such power, it has no jurisdiction. Jurisdiction is of two kinds, original and appellate. When a court has original jurisdiction of a case or suit, the case may be begun in such court. When a court has appellate jurisdiction, the case may be carried up to it from some lower court for the purpose of having the decision of such court re-examined. In such instances, it is assumed that the decision of the court below involves some defect or error that needs to be corrected. There are still other kinds of jurisdiction. If a court has exclusive jurisdiction of a case, it is the only court that can hear and determine it. Concurrent, or co-ordinate, jurisdiction relates to two or more

courts. In such instance, either one of the courts may try the case.

197. Law and Fact.—As has been stated, it is the business of a court to apply the law to cases, or to certain states of facts. Hence two questions arise. One question is: What is the law relating to the case? The other question is: What are the facts that make up the case? The first of these questions belong exclusively to the court proper; that is, the judge or judges decide it. Sometimes the facts involved are also submitted to the court alone, or to the judge or judges. But in most cases the facts are submitted to a jury. Now, the court, or judge, states to the jury the law relating to the case, and instructs it to find a verdict in harmony with the facts considered in the light of the law. In such cases he is said to charge the jury.

198. The Petit Jury and Grand Jury.—The body of jurors to which the law intrusts the decision as to the facts that make up a case is the Petit Jury. But there is another kind of jury called the Grand Jury, the duties of which cannot be understood without distinguishing between criminal and civil cases. A civil case is a suit brought to recover a debt or damages or to secure civil rights. A criminal suit is brought to convict a person of crime and inflict proper punishment. A crime involves society. In most civil cases the suit is brought by some injured person; but in criminal cases this is done by the State represented by officers chosen for the purpose. These officers are the grand jurors assisted by the Prosecuting Attorney. It is the duty of the Grand Jury to discover, if possible, the persons who are the probable

authors of crimes that have been committed, and to return them for trial. If its finding is unfavorable to the one accused, then he is said to be indicted, and, unless he pleads guilty or the case is *nollied*, as the lawyers say, he must be tried before a judge and petit jury.

199. How Juries are Secured.—At the beginning of every year the Court of Common Pleas of each county determines the number of persons necessary to serve as petit jurors and grand jurors in the various courts of the county in the course of the year. The Clerk of the Court apportions the number determined upon among the townships and the wards of cities. On election day the township trustees and city councilmen appoint the required number of persons having the proper qualifications, and the appointments are reported to the Clerk of the Court. This officer writes the names on separate pieces of paper, and drops them into a box provided for the purpose. At a specified time before the opening of each term of court, he draws from the box, in the presence of the Sheriff, 27 names, 15 for grand jurors and 12 for petit jurors. The Sheriff then summons each person whose name has been drawn to attend court at a stated time in the capacity of juror. The body of petit jurors is not necessarily one and the same for every case that is tried during the term of court. Some of the persons whose names have been drawn from the juror box may have interests or sympathies that would influence their judgment in a particular case, but would have no bearing in other cases. Therefore, at the opening of a trial each party,

through his attorney, questions the jurors whose names have been drawn, and if any objections are found to anyone he is excused and the Sheriff summons some bystander to fill his place.

200. The Conduct of a Trial.—The party that brings suit is called the plaintiff, and the party against whom it is brought the defendant. Each party may employ an attorney or attorneys to present his side of the case to the court; but when the State is the plaintiff, as in criminal actions, it is the business of the Prosecuting Attorney to represent its interest. If a settlement cannot be reached without it, the case is set for public trial. The ordinary procedure is as follows: A jury is secured that is satisfactory to both parties. Then the plaintiff, speaking through his counsel, or lawyer, presents his side of the case and states what he expects to prove. The witnesses for the plaintiff are called into court, sworn to tell what they know about the case, and then examined one by one. After a witness has been questioned by the counsel for the plaintiff, he may be cross-examined by the counsel for the defendant. He is then dismissed, although he may be re-examined by the plaintiff. The counsel for the defendant now presents the witnesses on his side of the case. Each one is examined, cross-examined, and dismissed as before. Next the counsel for the plaintiff presents to the jury an argument in favor of the plaintiff and against the defendant. The counsel for the defendant follows with an argument on his side of the question. The closing argument is next made by the counsel for the plaintiff. The Judge then states

to the jurors the law that applies to the case, and instructs them to find a verdict according to all the evidence, after which the jurors retire to consider the case. If they fail to agree, the Judge dismisses the case, and it stands as if it had not been tried. If the jurors bring in a verdict for the plaintiff in a civil case, the Judge orders the Sheriff to enforce the verdict, collecting from the defendant such sum of money as has been adjudged against him; but if it is a criminal case, the Judge pronounces sentence against the accused, and directs the Sheriff to carry it into effect.

201. Different Kinds of Courts.—There are so many kinds of cases to be tried, and there is so much judicial business that does not involve a public trial, that it is necessary to divide jurisdiction among different classes of courts. The need of courts of appellate jurisdiction creates the same necessity. Accordingly, the Constitution declares that the judicial power of the State shall be vested in a Supreme Court, Circuit Courts, Courts of Common Pleas, Courts of Probate, Justices of the Peace, and such other courts inferior to the Supreme Court as the General Assembly may from time to time establish.¹

202. The Probate Court.—The Probate Court is not primarily a court for the trial of cases, but for the transaction of special kinds of judicial business. Its principal office is to take cognizance of wills, to settle the estates of deceased persons, and to appoint administrators of estates that have not been disposed of by will, trustees of insolvent debtors, and guardians for persons incapable of taking care of themselves. It

¹ Art. IV., Sec. II.

issues marriage licenses, and keeps a record of marriages, births, and deaths. The Probate Judge is a county officer, and has been mentioned in the chapter on the County. The law provides no clerk for the court, and the Judge either appoints one or performs the duties of that office himself. To execute the writs issuing from his court, he summons the Sheriff, Coroner, or a Constable. Probate Judges determine the rules of procedure for their own courts, subject to modification by the Supreme Court. In March, 1896, an act passed the Legislature creating for Cuyahoga County a Court of Insolvency, the single judge of which is elected for five years and receives the same salary as the Probate Judge of the county, viz.: \$5,000. Part of the jurisdiction of the old Probate Court has been assigned to this new tribunal.

203. The Justice of the Peace.—The courts provided for by the Constitution, with the exception of the Probate Court, form a series in which each has appellate jurisdiction in cases carried up to it from one or more of the courts below; each also has original jurisdiction over a more important class of cases than the lower courts have. The lowest court in the series is that held by a justice of the peace. In civil cases this court has exclusive original jurisdiction where the sum in controversy does not exceed \$100, and concurrent jurisdiction with the Court of Common Pleas where such amount is between \$100 and \$300. The Justice has no authority over civil cases outside of the township in which he is elected; but in criminal cases his authority is coextensive with the county. He has no final jurisdiction in criminal

matters, except in certain inferior cases that do not call for the action of the Grand Jury. His principal business in cases where persons are suspected of committing crime, is to cause the arrest of the person, hold a preliminary examination, and, if he finds that the person is probably guilty, either commit him to the county jail or put him under bail for appearance at the next term of the Court of Common Pleas. The Justice of the Peace is a township officer, and has been discussed in the chapter on the Township. The Police Court of the city has a jurisdiction somewhat similar to the Court of the Justice of the Peace; it is described in the chapter on the Municipality.

204. The Court of Common Pleas.— This is the court, as its name implies, in which the majority of important cases at law arising in common life are brought. It has a very wide jurisdiction, extending to all civil cases where the sum involved exceeds the exclusive jurisdiction of the Justice of the Peace, and to all criminal cases except those inferior ones in which the Justice or Police Judge has power of final judgment. It has appellate jurisdiction from the inferior courts. The State is divided into ten Common Pleas districts, each of which except the first, which consists of Hamilton County, contains three sub-districts, including from one to six counties. Although the Court of Common Pleas is often called a county court it is not strictly such, for the judges who compose it are district officers. The judges are elected by the sub-districts, the number in each instance being fixed by law. The largest number in any sub-district is ten; the smallest, one. The term of office is five years; the compensation

is \$2,500 a year, except that in some counties they receive an extra sum from the county treasury. Thus in Hamilton County they receive \$6,000, and in Cuyahoga \$5,000. There must be not less than three sessions of the Court of Common Pleas held in each county every year. In October the judges within each district issue an order to the Clerk of the Court in each county within the district fixing the time for each term of court to be held in said county during the year. The judges apportion among themselves the business that will probably come up within the district, and designate what judge shall hold court in each county at each term or part thereof. The Clerk of this court and the ministerial officers have been treated of in the chapter on the County.

205. The Circuit Court.—The Circuit Court is primarily a court of appeals from the Court of Common Pleas. The law prescribes the methods by which different classes of cases may be carried up to this higher court for re-examination. A detailed history of each case must be furnished to the Judges of the Circuit Court by the Clerk, who is the same person as the Clerk of the Court of Common Pleas. They examine this history in all points, and may reverse or modify the judgment rendered by the court below. If they find error in the conduct of a trial, they send the case back to the court where it originated for re-trial. The Circuit Court has also original jurisdiction in certain classes of cases. It holds two terms in every county every year. On the third Tuesday of September, the Circuit Judges of the State meet at Columbus and fix the time for holding the terms in every

county, and issue orders declaring the same to the Clerks of Courts in their respective circuits. This order is duly recorded and is published in the newspapers. The counties of the State are grouped by statute into eight judicial circuits, in each of which three Circuit Judges are elected, one biennially for a term of six years. They enter upon their office on the 9th of February next after their election. Their salary is \$4,000 a year.

206. The Supreme Court.—The highest judicial authority in the State is the Supreme Court. This court consists of six judges, elected one annually for a term of six years. Their term begins in February next after their election. Each year the Judge whose term of office has most nearly expired becomes the Chief Justice of the State. The Judges receive a salary of \$4,000 a year. There is a clerk of the Supreme Court elected by the people of the State for the term of three years. When writs of summons, or of any other nature issued by the court, are to be executed, the ministerial officers of the county in which the writ is to be served are employed. The Court holds one regular session a year in its chamber in the State House at Columbus, beginning on the Tuesday after the first Monday in January. A majority of the whole number of Judges is necessary to render a decision. The Supreme Court pronounces upon the constitutionality of laws enacted by the General Assembly when cases involving these questions arise. It has original jurisdiction in many cases that concern the public interest, and has unlimited appellate jurisdiction over cases that have begun in the lower courts.

This court has a Reporter, who prepares the cases decided for publication. The decisions, both of the Supreme Court and the Circuit Courts are published. There is a State Law Library in the Capitol at Columbus.

207. Districts and Sub-Districts of the Common Pleas Courts.

District.	Sub-Division.	Counties.	No. of Judges.
1		Hamilton	7
2	1	Butler	1
2	2	Champaign, Clarke, Darke, Preble, Miami.....	5
2	3	Clinton, Greene, Montgomery, Warren.....	3
3	1	Shelby, Auglaize, Mercer, Allen, Van Wert.....	2
3	2	Defiance, Paulding, Williams.....	1
3	3	Fulton, Henry, Putnam.....	2
4	1	Erie, Huron, Lucas, Ottawa, Sandusky.....	7
4	2	Lorain, Medina, Summit.....	2
4	3	Cuyahoga.....	10
5	1	Adams, Brown, Clermont.....	1
5	2	Yayette, Highland, Madison, Pickaway, Ross...	4
5	3	Franklin.....	1
6	1	Delaware, Knox, Licking.....	2
6	2	Ashland, Morrow, Richland.....	3
6	3	Coshocton, Holmes, Wayne.....	2
7	1	Fairfield, Hocking, Perry.....	3
7	2	Jackson, Lawrence, Pike, Scioto	2
7	3	Athens, Gallia, Meigs, Monroe, Vinton, Wash- ington	3
8	1	Guernsey, Morgan, Muskingum, Noble.....	4
8	2	Belmont.....	1
8	3	Harrison, Jefferson, Tuscarawas.....	2
9	1	Carroll, Columbiana, Stark....	3
9	2	Mahoning, Portage, Trumbull.....	3
9	3	Ashtabula, Geauga, Lake.....	2
10	1	Hancock, Hardin, Seneca, Wood.....	3
10	2	Crawford, Marion, Wyandot.....	2
10	3	Logan and Union	1

Superior Court of Cincinnati.—This Court consists of three judges, whose tenure of office is five years.

208. The Circuits of the Circuit Courts.—Each Circuit has four judges.

FIRST CIRCUIT.	Counties: Butler, Clermont, Clinton, Hamilton, and Warren.
SECOND CIRCUIT.	Counties: Champaign, Clark, Darke, Fayette, Franklin, Greene, Madison, Miami, Montgomery, Preble, and Shelby.
THIRD CIRCUIT.	Counties: Allen, Augalize, Crawford, Defiance, Hancock, Hardin, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Union, Van Wert, and Wyandotte.
FOURTH CIRCUIT.	Counties: Adams, Athens, Brown, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pickaway, Pike, Ross, Scioto, Vinton, and Washington.
FIFTH CIRCUIT.	Counties: Ashland, Coshocton, Delaware, Fairfield, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, Tuscarawas, and Wayne.
SIXTH CIRCUIT.	Counties: Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood.
SEVENTH CIRCUIT.	Counties: Ashtabula, Belmont, Carroll, Columbiana, Geauga, Guernsey, Harrison, Jefferson, Lake, Mahoning, Monroe, Noble, Portage, and Trumbull.
EIGHTH CIRCUIT.	Counties: Cuyahoga, Lorain, Medina, and Summit.

NOTE.—The following somewhat technical definitions may be found helpful to some teachers and students:

Felony.—A felony is an offense that, under the old law of England, was punished with a total forfeiture of lands or goods. To this forfeiture, capital or other punishment could be added. In general, felony includes capital and states-prison offenses.

Misdemeanor.—A misdemeanor is an offense for which a person may be indicted, under the grade of felony.

Crime.—A crime is an act that violates the public law. It is a public wrong, distinguished from a private wrong, which is a civil injury or tort. Both felonies and misdemeanors are crimes.

Subpoena.—A subpoena is a writing, or process, whereby witnesses are brought into court in order to obtain their testimony. If the person subpoenaed does not appear as ordered, he is punishable for contempt of court.

Process.—A process, in the legal sense, is a writ that issues from a court or judge. It is a means of compelling the defendant in an action to appear in court. It must be served by an officer of the court, as a sheriff or constable.

Writ.—A writ is a written command issued by a court directing something to be done touching a case or suit. A process in a civil suit is sometimes called a writ, while a process in a criminal case is called a warrant. A death warrant is an order directing the execution of a person who has been sentenced to death.

Penalty.—A penalty is some form of punishment inflicted by competent authority for the violation of law. Capital punishment is taking the life of the person punished; it is the same thing as the death penalty.

Execution.—An execution is the act of carrying into effect the final judgment of a court. This is done by means of a writ, sometimes called a writ of execution.

Judgment.—A judgment is the sentence of the law pronounced by the court in a case or law-suit.

Decision.—A judicial decision is the determination, or conclusion, reached by the court in a given case.

Verdict.—A verdict is the finding or conclusion reached by a jury. A judge may issue decisions or judgments, but not verdicts.

NOTE.—The Seventy-second General Assembly enacted that the death penalty should be administered by passing a current of electricity through the body of the condemned man, this to be done within the walls of the Penitentiary of Columbus.

CHAPTER XVIII

THE PUBLIC SCHOOL SYSTEM

209. History.—At the very organization of government in the Northwest Territory, it was expected that the public education of youth would be provided for. The Ordinance of 1787 declared in an oft-quoted clause: “Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” The State of Ohio has not disappointed this expectation. In each of its Constitutions has the clause just quoted been incorporated. The one now in force says further: “The General Assembly shall make such provisions, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect, or sects, shall ever have any exclusive right to, and control of, any part of the school funds of the State.”¹

210. Governing Authorities.—A school, or system of schools, appears to the pupils who are members of it to be governed by the teacher or teachers, with perhaps the supervision of a principal or superintendent. In reality, teachers and their supervisors are but agents of the State. The law vests the control of schools in local boards of education, and oversight of the educational affairs of the whole State is

¹ Art. VI, Sec. 2.

intrusted to a Commissioner of Common Schools; it also authorizes boards of examiners to issue licenses or certificates to teachers.

211. The School District.—The school district is the unit-area of school organization, and determines the bounds of the authority of a board of directors. It generally consists of a whole municipal corporation or a whole township, exclusive of any such corporation that lies within its borders. However, communities may be joined for educational purposes that are separate in other governmental affairs. There are township school districts, special districts, village districts, and four classes of city districts. Cincinnati is the only representative of the first of these classes, and Cleveland the only one of the second class.

212. Boards of Education: Organization.—For city school boards, like city councils, the usual unit of representation is the ward. There are one or two members elected from each of these divisions. Cleveland, however, has a special form of schoolboard, which is composed of a single school director and a council of seven members elected for the whole city. For village and special districts, the law prescribes a board with a fixed number of members. Township districts present a peculiar organization. They are divided into sub-districts, each of which elects one director. All these directors taken together, constitute the Board of Education. This arrangement is the result of recent changes in the management of rural schools. The term of office, in the majority of districts, is three years. A schoolboard organizes by electing one of its members president and

by choosing a clerk, except that in township districts the Township Clerk acts in this capacity. In city and township districts, the treasurer of the local government is also treasurer of the school board. In cities regular meetings of the school board occur once in two weeks; in township districts once in two months. Adjourned or special meetings are also sometimes held. Every board is a body corporate and politic, in that it is capable of buying, holding, and selling property, of suing and being sued, and of entering into contracts.

213. Boards of Education: Duties.—Boards of education are charged with duties of great importance. They appoint the superintendents, principals, and teachers of the schools, and adopt courses of study and text-books. They provide buildings, equip them with libraries, apparatus, etc., and supply furniture and the service of janitors. They have final authority in questions of discipline. They have power to tax the property owners of the district for the support of the schools. The amount of business which these duties involve varies with the population of the district. Township districts may have less than half a dozen school-houses, with a single school-room and one teacher for each with a few pupils, while city districts sometimes number their school buildings by the score, their teachers by the hundred, and their pupils by the ten-thousand. In Cincinnati and Cleveland the principals and teachers are appointed by the Superintendent, by and with the advice and consent of the Board. In Cleveland the Superintendent is appointed by the Director and Council.

214. Teachers and Instruction.—Nowhere in the United States are teachers required (as in Germany) to take an oath of office; they are not, therefore, classed as officers of the government. This, however, does not detract from their importance in the educational system. Their influence in training the minds and developing the characters of their pupils is one of those forces that do not admit of measurement. Then, although it is the Board of Education that adopts courses of study and text-books, the teachers commonly prepare these courses and recommend the books. And still further, the primary power of discipline is vested in the teacher. The law protects the teacher in the exercise of a certain authority over the school and the individual pupil, but, as remarked, the final jurisdiction is in the Board. Thus, to advise the introduction of studies into the course, to organize the pupils that flock to the schoolhouses in schools and classes, with grades adjusted to the needs of pupils and to one another, and to assign studies,—this is largely the work of teachers. The courses of study offered to pupils in the first public schools of Ohio were very elementary, and were adapted to the irregular or brief attendance of the pupils, which the conditions of pioneer life necessitated. Not until the decade 1840–1850 were public high schools established, but since that time great progress has been made in that direction, and in all other directions. The township school, although necessarily incomplete in grading, still provides for every pupil who asks it eight years of training, and dismisses him with a certificate entitling him to enter some high

school. The city school system, if complete in organization, provides for him eight years of elementary training, and four years of high school training, and graduates him with a more liberal education than was formerly afforded by the colleges. Two years of kindergarten training may also be provided.

215. Examining Boards.—There are two grades of licensing authorities—the State Board of Examiners, and county, city, and district boards. County Examiners are appointed by the Judge of the Probate Court. The certificates that they grant to teachers are valid throughout the county, except in such districts as have special boards. They run 1, 2, 3, or 5 years, according to the proficiency of the candidates. City examiners are appointed by the Board of Education for the district in question. Their certificates are issued for the same periods as county certificates, and are valid only in the district for which the board is appointed. Candidates for local certificates pay a fee of fifty cents, and the fund thus arising is devoted to the support of annual teachers' institutes. The State Board of Examiners are appointed by the State Commissioner of Schools, and they conduct their examinations as a rule at the State Capital. Their certificates are granted for life, are valid throughout the State, and render examination by other boards unnecessary to those who obtain them. A fee of \$5 is charged each applicant, and the certificate issued must be signed by the State Commissioner.

216. The State Commissioner of Common Schools.—Some facts concerning this officer have been given in the chapter on the State Executive. It

remains, however, to speak of his duties. The law requires that he shall visit annually each judicial district of the State, encouraging teachers' institutes, conferring with boards of education or other school officers, counseling teachers, visiting schools, and delivering lectures on topics calculated to advance the interests of popular education. It also empowers him to supervise the application of the educational funds of the State. He is State school statistician, and issues annually a voluminous report. Not the least important feature of the Commissioner's service is the influence that he may exert in procuring from the General Assembly needed school legislation. The history of Ohio affords numerous instances where an efficient Commissioner has inspired beneficial legislation. Certain school reforms are of very recent date, as the provision for graduation from township schools in order to enter some high school; also the unification of township school management by consolidating the sub-districts into one township district.

217. School Funds.—Funds for the support of the public schools are derived from a variety of sources. There is the local school tax levied annually by the board of each district; the State school tax levied by the General Assembly; the fund accruing from certain licenses and fines, and the income from the funds which were derived from the sale of the school lands voted to the State by Congress. The total annual expenditure for public schools at the present time is about \$14,000,000. More than one-half of this sum is derived from the local taxes that boards of education levy upon the districts. To secure a just distribution

among the districts of the funds coming from the State tax, is not an easy matter. It is done by counting the youth between the ages of 6 and 21 in all the districts of every kind, or what is called the enumeration, and then apportioning the money among the districts according to their respective numbers. These numbers are called the basis of apportionment. At present the State school tax is one mill on the dollar of the State tax-duplicate.

CHAPTER XIX

ELECTIONS

218. Suffrage and the Qualifications for it.—

The right of suffrage is the right to express a preference about the choice of government officers, or about the decision of public questions, by voting in a prescribed manner at a time and place officially appointed for such choice or decision. What persons shall exercise this right is determined partly by the Constitution and partly by the statutes of the State. The Constitutional provision is as follows: "Every white¹ male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections."² Only the length of his local residence is fixed by statute. At the present time, an elector must have resided in the county for the thirty days next preceding the election, and, unless a married man, in the election precinct for the twenty days next preceding; he must also be in actual residence on election day.

219. Complexity of the Election System.—It has been shown that the State recognizes several ranks or orders of political communities, subordinate to itself; also that it is itself a political community subordinate to the Federal Government. To elect a

¹ Amendment XV., Cons. U. S. nullifies the word "White."

² Art. V., Sec. 1.

separate set of officers for each of these communities necessitates a system of much complexity. Every elector has a right to cast a ballot for township officers, and, if he lives in a corporation, for municipal officers besides; for county officers and certain district officers representing several counties jointly, as judges; for State Senators and Representatives, and all State officers, and for members of the National House of Representatives, and electors of President and Vice-President. However, the matter is much simplified by the fact that all elections are conducted by the same officers, and according to the same methods as far as their nature permits. The same polling places are used for all purposes, and elections of several kinds of officers are held at the same time. The first Monday in April is the time prescribed by law for holding township and municipal elections. Elections of county officers, State officers, and Federal officers are held on Tuesday after the first Monday in November.

220. Election Officers.—At the head of the officers who conduct the elections, stands the State Supervisor of Elections. This officer is one and the same person as the Secretary of State, and he holds the former office by virtue of his holding the latter. Next inferior to him is the county board of Deputy State Supervisors. This board has the direction of elections throughout its county, except in cities of the first or second class, where it has little, if any, authority. Every such city has a special board of elections. The lowest officers in the system are the precinct judges and clerks, who have actual charge of

the polling places. All election officers take an oath of office and receive compensation for their services.

221. Deputy State Supervisors.—Each county has a supervisory election board of four members, who are appointed on or before the first Monday in August by the State Supervisor of Elections, two biennially, for a term of four years. This board organizes at the County Commissioners' office before the November election comes on. It chooses a person who is not a member to be its clerk, and one of its members to be its president. It receives general instructions from the State Supervisor, and issues bids for the printing of ballots, cards of instructions, and other papers necessary to the conduct of the elections.

222. City Board of Elections.—Every city of the first or second class has a board of elections, consisting of four electors appointed from the leading political parties by the Mayor, two biennially, for a term of four years. The board organizes at the Mayor's office by choosing a secretary and a president. Its business is in general like that of the county board, except that the greater number of regulations necessary to conducting elections in the city makes its methods more complex and its duties more detailed.

223. Election Precincts.—To facilitate the conduct of elections, the Deputy Supervisors and Boards of Elections may divide townships and wards into election districts or precincts whenever the number of votes polled in the area under consideration at the preceding November election was 500 or more. A precinct is the area within which the voters vote at one place.

224. Precinct Officers.—The election officers common to all precincts are judges and clerks of election. At least ten days before the November election there are appointed for every precinct, out of the number of its qualified electors, two clerks of opposite politics, and four judges, only two of whom can belong to the same political party. These hold office one year, and conduct both the November and April elections. The Deputy Supervisors make the appointments in precincts under their authority, and designate one judge to be president of the election in each precinct. No person who is formally a candidate for any office can serve as a judge or clerk of elections.

225. Registration of Voters.—Cities of the first and second class present one important feature that is not found in townships and minor municipalities. This is the registration of voters, in order to prevent any but *bona fide* voters from voting. In these cities the boards of elections designate two of the judges of elections in each precinct, of different parties, to enroll, at an appointed time and place, such voters in a book or on a list provided for the purpose. In cities of the first class and the first grade of the second class, every voter must register annually before the November election; in other cities where registration is required, it comes only on the years of presidential elections, except in the cases of new-comers in the township or other precinct. Prior to the April election, the registration is annual, but is required only of new voters in the precinct. If an applicant's right to register is challenged, the judges question him as to his name, age, time of residence in the State and

precinct, his nativity, and when and where (if of foreign birth) he was naturalized, and his answers to the questions are entered in duplicate registers.

226. Notice of Elections.—The Sheriff of each county is required, fifteen days before each November election, to give notice throughout the county of the time and places of holding the election and of the officers to be voted for. This is done by posting copies of a proclamation at the polling places, and by publishing notices in the newspapers. Municipal elections are announced by the Mayor in a similar manner, and notices of township elections are given by the Trustees, notices being posted at the polling places by the Constable.

227. Election Supplies.—The printed materials necessary to carrying on an election are ballots, poll-books, tally-sheets, cards of instructions, certificates, registers, etc. A short time before an election, the presiding judges of the various precincts are summoned before the boards of election and provided with the necessary materials in sealed packages, which must be opened publicly at the moment of beginning the election. The polling places are furnished with booths, voting shelves, ballot-boxes, and guard-rails. The ballot form for general elections is prepared by the Deputy Supervisors; but the proof sheet must be submitted to the chairman of the local executive committee of each political party. The law directs that the names of candidates shall be printed in parallel columns, each headed with the device chosen by the party, and that the party which polled the highest number of votes at the last election shall have the

precedence. To vote a "straight ticket," the elector makes a cross (X) in the circular space above the list of names; to vote for particular candidates merely, he puts marks in the square space at the left of the names.

228. At the Polls.—The polling place in a township precinct is designated by the Trustees, and in a city precinct by the Councilmen. At 6 A.M. of election day the polls are declared open by the presiding judge of the election, and at 6 P.M. they are closed, except in Cincinnati where they close at 4 P.M. In addition to the judges and clerks, there may be present witnesses and challengers designated by the chairmen of the executive political committees, and officers to assist the judges in enforcing order. The judges in some cases assist voters in marking their ballots. They decide all questions of legality that may arise. In registration precincts two of the judges handle the duplicate registers, mentioned in a previous paragraph. On approaching the guard-rail, a person desiring to vote gives his name to the judge holding the ballots, whereupon that officer writes the name on a ballot-stub,¹ detaches the ballot, and hands it to the voter, who is then admitted within the rail. He goes to a voting shelf, where cards of instructions are posted and writing materials are provided. He prepares his ballot by marking it according to the instructions, folds it, and hands it to one of the judges, whereupon his name is announced from the ballot-stub. Each clerk enters it in a poll-book, and if it is a registration precinct each of the judges in

¹ The ballots are prepared in books, each ballot having its own stub.

charge of a duplicate register finds the name and checks it off. The judge deposits the ballot in the box. According to a law recently enacted, a voter can not receive assistance in marking his ballot unless he is physically disabled. Judges must keep the access of voters to the polling place unobstructed, must check any attempt to intimidate a voter, and, at all hazards, protect the ballot-boxes and poll-books against fraud and dishonesty.

229. Counting the Ballots.—The judges read the ballots and the clerks keep the tally-sheets. Besides these officers there may be present one witness or inspector for each party that has had candidates on the ballot. The judges and clerks certify the number of voters entered in the poll-books. The presiding judge at once proclaims the number in a loud voice. If it is a registration precinct, the number is compared with the number of names checked off on the duplicate registers. The left-over ballots are destroyed. Then the ballot-box is opened. One of the judges opens the ballots one by one, reads aloud the names of the persons voted for, and hands each ballot to the other judges for inspection. This process is repeated until the number of ballots read equals the number of electors entered on the poll-books. Next the votes, as recorded on the tally-sheets, are counted and the result is at once proclaimed, and a public notice is also posted. Then the judges burn the ballots counted; also any excess over the number entered in the poll-books.

In registration precincts the procedure differs somewhat from this. The ballots are first all counted without being unfolded. If there is an excess over the number entered in the poll-books, a number of

ballots equal to the excess is drawn out by a judge who stands with his back to the box, and they are destroyed before the other ballots are read and counted.

230. Returns.—After an election for township or municipal officers, the judges and clerks certify the returns to the clerk of the township or municipality. This officer canvasses the returns and gives notice to each person who has been elected to take the oath of office and give a bond. The judges and clerks certify the returns in case of Presidential Electors, National Representatives, and all State officers, including justices of the peace, to the Deputy Supervisors, who are the canvassing board for the county. This board then prepares abstracts of all the votes cast for the several offices, and forwards them to the Secretary of State at the State Capitol, where they are canvassed and the results determined. In canvassing the abstracts, the procedure is not the same in all cases. The Governor issues all certificates of election and commissions.

231. Women's Suffrage: School Elections.—In 1894 the General Assembly enacted a law declaring that women of the age of 21 years and more, who are citizens of the United States, and have had the length of residence that the law prescribes as an electoral qualification for men, are entitled to vote and be voted for at elections for the purpose of choosing members of school boards. Further than this the State of Ohio has not gone in the enfranchisement of women. In municipal school districts the election of school officers is combined with that of municipal officers. In the township sub-district there is a special election of the most rudimentary form.

CHAPTER XX

POLITICAL PARTY MACHINERY¹

232. How Parties Originate.—In all countries where men are free to think, speak, and act on questions of government, there will arise differences of political opinion. Some men will desire to have the government carried on in one way, some in another way; and they will all wish to see their favorite ideas carried into practical effect. As separate individuals men can exert little influence upon public affairs. Accordingly, those who agree on what they consider leading questions learn to act together. In other words, they form a political party, which may be defined as a body of citizens who agree in what they consider the essentials of political faith organized for political action. Concert and organization are as necessary to efficiency in politics as in other spheres of activity.

233. Nominating Candidates.—The only way in which men and parties can give their political principles practical effect, is to secure the election of men to the important public offices who believe in those principles, and who, if elected, will carry them out.

¹ Valuable information on the subject of this chapter may be found in two small books published by G. P. Putnam's Sons: *The American Caucus System: Its Origin, Purpose, and Utility*, by George W. Lawton; *Primary Elections: A Study of Methods for Improving the Basis of Party Organization*, by Daniel S. Remsen. See also Charles Nordhoff's *Politics for Young Americans*, Chap. xxxix., and the *Century Dictionary* for the words "caucus" and "primary."

But to secure the selection of such men, those citizens who think alike must act together; they must vote for the same candidates for the several offices or they will lose all their strength. Hence an understanding or agreement must be reached as to candidates. It may be said, in general, that political parties exist primarily to secure the election, and so the nomination, of suitable men to office. It is therefore necessary that, before the elections provided for by law are held, party nominations shall be made. In the United States a system of nominating machinery has been devised with this end in view. This chapter will be devoted to a description of this machinery as it works in Ohio and other States.

234. The Primary Meeting.—This is the name given to a local public meeting of citizens belonging to the same political party held to promote party ends. It is confined to a township or other precinct. It nominates candidates for the local offices, and appoints delegates to represent the precinct in some of the various conventions soon to be mentioned. This is a direct method of nominating candidates: no secondary agency comes between the members of the party and the candidate. As a rule, those persons are permitted to take part in the primary meeting who have supported the party ticket at the last general election, or who give a satisfactory assurance that they will do so at the coming election.

235. The Primary Election.—This is nothing but a more formal primary meeting. The ordinary primary is conducted in such a manner as those participating may agree upon, but the primary election

is conducted under the forms of law. The law of the State provides that any political party in any township, municipal corporation, county, or district may hold primary elections for the purpose of nominating candidates for office. First, a majority of the party central committee in the township, etc., must give due notice of the election, stating its object and the time and place of holding it. This committee must name a legal voter of the precinct who is to preside at the poll, and prescribe the qualifications of persons who will be permitted to vote. The rule is that the election must be held between 4 o'clock and 7 o'clock of the day named, unless the committee appointing the election names a different time. If the supervisor who has been named fails to appear, or declines to act, the qualified voters at the election choose another, one who is duly qualified to take the place. The electors also choose two judges and two clerks of election to assist the supervisor. All these officers must take an oath that they are legally qualified to act, and that they will conduct the election carefully and honestly. From this time on the primary election is conducted in the same way as any other election. The judges give certificates of election to those having the highest number of votes for the several offices, and also make a return to the chairman of the committee. If the nomination to be made is a county or city office, then the votes from the several precincts are combined to obtain the general result. It will be seen that this also is a direct method of nominating candidates. The law provides the usual safeguards against corrupt practices. An "election," so called, at a

primary election is not an election in the ordinary use of that term. All it amounts to is to make the man who is elected the party candidate for the office named, or to make him a delegate to some convention. In the cities of Cincinnati, Cleveland, Toledo, Canton, Columbus, and Dayton, primary elections are conducted under the control of the Board of Elections. This mode of nominating candidates is sometimes called "The Crawford County Plan," from Crawford County, Pennsylvania, where it is said to have originated. It is supposed to be more useful in the large cities than in the small ones or in the country. The object of the primary election is to throw the safeguards of the law around primary political action.

236. The Voluntary Primary Election.—The election just described is held in conformity with the conditions of law. But a political party in a township or other political division may hold a similar election by general agreement, not caring to take advantage of the law. This is a simpler method of proceeding than the other. In such cases the party makes its own rules and manages matters in its own way. There is no real difference between this mode of nominating candidates and the primary meeting, except that it may be used on a larger scale, and is somewhat more formal. Thus the Republicans or the Democrats of a county may agree among themselves to leave the nominations for the county offices and the State Legislature to voluntary primary elections held in the several townships and other precincts. In such case the man is nominated who receives the largest number of votes in the county.

Indian **237. The Caucus.**—The word caucus is of American origin, and has a somewhat uncertain history. It has also more than one meaning, or applies to more than one kind of body. Sometimes the primary meeting is called a caucus. More properly, the word designated a private meeting of influential citizens or politicians held before the primary meeting or the primary election to consult as to matters to come before that meeting or election. It is often held to advance the personal or selfish ends of persons participating. Members of the same political party in legislative bodies, as the City Council and the State and National Senates and Houses of Representatives, also hold caucuses to agree upon lines of action within such bodies. In its local meaning the caucus is sometimes called the pre-primary. Those participating in these meetings are said to “caucus;” and the fact that business is done in secret sometimes gives the word an unsavory meaning. In fact, the present tendency seems to be to confine the word caucus to such meetings.

238. The County Convention.—This convention is composed of delegates from the several townships or other precincts of the county, who are appointed at caucuses or primary meetings, as already explained. It has two functions. The first and most important one is to nominate candidates for the various county offices and the Legislature. The second and less important one is to appoint delegates to represent the party of the county in State convention. This is an indirect method of nominating candidates. A representative body comes between the party and the nomi-

nation. Sometimes, however, county nominations are made by means of primary meetings or primary elections, as explained in the previous paragraph.

239. The Senatorial Convention.—The 37 members of the State Senate are elected in 33 districts. They are nominated by Senatorial district conventions, composed of delegates from the several townships, wards, etc., in the district. This is also an indirect mode of making nominations.

240. The Congressional-District Convention.—This convention is called once in two years to nominate a party candidate to represent the district in the National House of Representatives. It also appoints, once in four years, two delegates from the district to the National convention, and names a candidate for Presidential elector, whose name is put on the State electoral ticket. This, again, is an indirect mode of making nominations. The Congressional convention is composed of delegates from the townships and other precincts that constitute the district.

241. Judicial Conventions.—The judges of the Courts of Common Pleas are elected in the subdivisions of the judicial districts, and the judges of the Circuit Courts in the circuits. Both alike are nominated by party conventions, composed of delegates representing their respective parties within the subdivision or circuit.

242. The State Convention.—The State convention is made up of delegates from the counties, who are appointed by county conventions, or are elected by the counties at primary meetings or primary elections. It nominates party candidates for the State

offices, and once in four years appoints four delegates to the National party convention and two candidates for Presidential electors on the State ticket.

243. The National Convention.— This body meets once in four years, to put in nomination candidates for the office of President and Vice-President. It is composed of delegates from the various States, each State being entitled to twice as many delegates as it has Senators and Representatives in Congress. As a rule, it also admits two or more delegates from each of the Territories. Four of the delegates to a National convention from Ohio, called delegates-at-large, are appointed by the State convention; the other 42 are appointed by the several Congressional conventions, as already explained. Obviously this is a form of indirect nomination.

244. The Mass Convention.— This is a popular meeting, commonly limited to the county, but sometimes having a wider scope. It is really only a more formal and imposing mass-meeting. Sometimes, however, a political party in a county nominates candidates by means of a county mass-convention rather than by a delegate convention or a primary meeting or election. When this is done it is a direct mode of nominating candidates.

245. Representation and Voting.— The common rule is to assign the members that make up conventions within the State to the townships, counties, etc., according to the number of votes that they cast for the leading candidate on the party ticket at the last preceding general election. With a single exception, a majority suffices for carrying a vote. It is a long-

standing rule of the Democratic party to require two-thirds of those voting to nominate Presidential and Vice-Presidential candidates.

246. The Unit Rule.— It is not uncommon for the delegates to a convention from the same political division, as the township, county, or State, to vote together, as one man, in making nominations. This is to secure greater weight in deciding the issue. Sometimes a delegation is instructed to vote for a certain candidate, as a Presidential candidate. This is known as the unit rule.

247. Central Committees.— Associated with each of the meetings and conventions that have been named is a committee, commonly called the Central Committee. It serves as a sort of party executive. Its principal business is to make arrangement for holding the convention in connection with which it acts. For example, the appropriate committee names the time and place for holding the primary meeting or the convention. The meeting or the convention itself appoints, directly or indirectly, the committee for the ensuing year or convention period. The township or county committee is composed of a prescribed number of committeemen. The latter may be one from a township or other precinct, or it may be a larger number according to the party strength of the precinct. The Congressional-district or Judicial-district committee is made up from the counties of the district. The State committee comprises one member from each Congressional district in the State, and the National committee one from each State and Territory. Besides the central committee, there is often an executive

committee that manages the campaign when once the nominations are made.

248. Political Platforms.—The various conventions commonly adopt resolutions declaring the leading articles of party doctrine as those participating understand them. Such resolutions, when adopted by a State convention, are called a State platform; when adopted by a National convention, a National platform.

249. Officers and Rules.—The various political bodies that have been described appoint their own officers, chairman and clerk, or president and secretary. The higher conventions, like legislative bodies, do much of their work by committees. Business is commonly transacted in accordance with the ordinary rules governing public assemblies. Still every convention has a right to enact rules for its own government, and also to enact rules that, until they are repealed, will bind the corresponding central committee and the next ensuing convention.

250. Recapitulation.—It will be seen that the system of party management which has been built up in the State, and other States as well, is extensive and complicated. It embraces the primary meeting, the primary election, the caucus, county, State, and National conventions, and district conventions of various kinds, together with a series of central committees reaching from the township primary meeting or election to the National convention. In no other country is such an extensive system of party machinery found.

251. The System Voluntary.—The whole system of caucuses, conventions, and committees that has been described, like political parties themselves, is purely

voluntary. The Ohio law provides for holding primary elections, but men and parties are under no obligations to make use of the law. With the exception of this feature, which is purely optional, the whole system, from bottom to top, lies outside of our constitutions and laws. It is a machine that the political parties of the country have slowly constructed, in order to give practical effect to their political principles. It reaches its end through the nomination of candidates and declarations of political doctrine. The influence of this system on our government and whole political life it would not be easy to exaggerate.¹

¹ See The American Government, Chap. XXX.

CHAPTER XXI

THE SYSTEM OF TAXATION

252. Taxes Defined.—The average youth is more familiar with taxation than with the other functions of government, except elections. He is not likely to see the working of those powers that make improvements for the public good, and restrict the liberties of the individual for the benefit of the community, unless he makes a positive effort to discover by whom and how these things are done. But the annual visit of the Assessor, and the talk throughout the neighborhood of the high taxes, makes very real to him the fact that the members of the society in which he lives are subject to an authority that constrains them even to give up a part of their property. Taxes may be defined as private property taken from the citizen by government in return for benefits that the government confers upon the citizen.

253. The Justice of Taxes.—Every species of government has a sphere within which it is responsible for the public welfare. Those officers whose business it is to provide things that the people need in common, and use in common, can no more discharge this duty without the expenditure of money than the father of a family can provide for his family without money. In the country, where a sparse population reduces the demands upon the local government, it may appear that only a little money would be needed, and that it could easily be secured; but in the city

the things necessary to insuring the public safety and comfort are manifold, and it is evident that the government cannot fulfill its purpose without a large income. From what source can this be derived? When a private corporation doing business furnishes a person with things necessary to his subsistence and happiness, it is that person's duty to pay for what he receives; and the public corporation called the government has the same right to an income from those for whom it exists.

254. Taxing Authorities of the State.—The Constitution¹ affirms the power of the General Assembly of the State to provide by law for raising revenue by levying taxes. It declares further² that the commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law. Again,³ it declares that the General Assembly shall provide for the organization of cities and incorporated villages, by general laws, and restrict their power of taxation, etc., to prevent the abuse of such power. The General Assembly, by the authority herein conferred upon it, has enacted laws specifying the purposes for which county commissioners, city councils, township trustees, and school directors may levy taxes, and limiting the rates of taxation. The taxing authorities are, therefore, five in number.

255. Property Subject to Taxation.—The Constitution⁴ declares that laws shall be passed taxing, by

¹Article XII.; ²Article X., Sec. 1; ³Article XIII., Sec. 6.

⁴Article XII, Sec. 2.

a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property according to its true value in money. Real property includes land, with everything contained in it, and all buildings, structures, improvements, and fixtures of whatever kind on it. Personal property includes all other individual property.

256. Property Exempt from Taxation.—By authority conferred by the Constitution,¹ the General Assembly has enacted laws declaring property devoted to certain purposes to be exempt from taxation. The exemption applies to all property used for the purposes of public schools; all property used exclusively for church purposes and cemeteries; all property belonging exclusively to the State or to the United States; all county buildings and poor houses; all property used exclusively for purposes of public charity, and for the extinguishment of fires; all other public property, as market houses, public grounds, and machinery belonging to any town; all monuments, and personal property belonging to any individual to the value of \$100.

257. The Purposes of Tax Levies.—(1) The General Assembly levies taxes to sustain three important State Funds, viz.: The General Revenue Fund, the Sinking Fund, and the State Common School Fund. The General Revenue Fund is used for such purposes as the payment of State salaries, the construction of public works, and the maintenance of benevolent institutions. The Sinking Fund is used to pay the interest and the principal of the public debt. The State Common School Fund is devoted to the support

¹ Article XII, Sec.. 2.

of the common schools, as has been explained in another place. Recent legislation has also created the Ohio State University Fund and the Ohio and Miami University Funds, which are also raised by State taxation. (2) The general purposes for which county taxes are levied are to raise a general expense fund, a poor fund, a bridge fund, a building fund, an indigent soldiers' fund, a road fund, and to pay the county debts, principal and interest. (3) Township taxes are levied in general for miscellaneous expenses, as for roads, ditches, and bridges, and for the relief of the poor. (4) School directors levy taxes to provide grounds, buildings, and apparatus for the schools in their respective districts, to employ teachers, and meet other running expenses.

258. Purposes of Taxation in Municipal Corporations.—An enumeration of the purposes for which municipal corporations may levy taxes will show in part how extensive and intricate the subject of taxation sometimes becomes.

1. To pay for real estate and right of way for an authorized improvement.
2. For sanitary and street cleaning purposes, and for street improvements and repairs.
3. For improving highways leading into the corporation.
4. For wharves and landings on navigable lakes and rivers.
5. For constructing levees and embankments.
6. For constructing and maintaining bridges.
7. For improving any watercourse passing through the corporation.

8. For the erection and maintenance of infirmaries, and support of the out-door poor.
9. For the erection and maintenance of work-houses.
10. For the erection and care of prisons.
11. For the erection and care of houses of refuge.
12. For the erection and care of market-houses.
13. For the erection and improving of hospitals.
14. For the erection and improving of public halls and offices.
15. For the erection of school buildings.
16. For the erection of fire department buildings, and purchase of fire apparatus.
17. For the erection of water-works, and operation of the same.
18. For the erection of gas-works, and for lighting the corporation.
19. For grounds for parks and cemeteries.
20. For the construction and repair of sewers, ditches, and drains.
21. For the payment of the marshal and police.
22. To pay the interest on the public debt of the corporation, and provide a sinking fund.
23. For maintaining a public library.

259. Rates of Taxation.—The rates *per centum* that the law prescribes as limits which the taxing authorities shall not exceed, are changed so often that figures to show them are of little permanent value. For the fiscal year ending November 15, 1895, the General Assembly levied taxes on every dollar's worth of property on the list, as follows: For the General Revenue Fund, $1\frac{4}{10}$ mills; for the Sinking Fund, $\frac{3}{10}$ of a

mill; for the State Common School Fund, 1 mill; for the Ohio State University Fund, $\frac{1}{8}$ of a mill. The taxpayers of Cincinnati were assessed by county, city, and school district authorities together at the rate of $25\frac{3}{10}\%$ mills. Adding the $2\frac{7}{10}\%$ mills levied by the State and the $25\frac{3}{10}\%$ mills levied by the local authorities, we have a total of $28\frac{1}{10}\%$ mills on the dollar. The taxpayers of Cleveland were taxed by all authorities at the rate of $28\frac{1}{10}\%$ mills on the dollar. The lowest taxes paid in the State were at the rate of 8 mills, the highest $53\frac{1}{10}\%$ mills. The wide discrepancy is explained in part by the fact that every authority with power to levy taxes has also power to raise revenue by selling bonds; and whenever any authority exercises this power it must increase its levy to pay the interest and to redeem the bonds themselves as rapidly as they become due. City rates are also much higher, as a rule, than country rates. Accordingly, local rates of taxation are far from uniform. High rates imply the payment of debts, the making of improvements, or the wasteful expenditure of the public money.

260. The Employment of Executive Authorities.—Taxation, like elections, is an admirable illustration of the relation of inter-dependence that exists between the different grades of government. The property-holder pays four or five authorities distinct kinds of taxes; yet in doing this, he is brought into contact with only two assessors and one collector. The explanation of this is, that all the taxing authorities make use of one and the same system of executive officers. The center of this system is the County Auditor, whose duty it is to prepare the county tax-list.

261. Determining the Total Rate.—The various taxing authorities in a county are required to inform the Auditor, not later than the first of June, of the sums of money that they have determined to raise for the ensuing year, the purpose for which they make the levies, and the rate *per centum* fixed for each purpose. The valuation of the taxable property according to the latest lists is found at the Auditor's office. If the rates exceed the limits fixed by law, the estimated amounts to be voted are reduced. How the valuation of property is first ascertained, will now be explained somewhat at length.

262. The Assessment of Personal Property.—The township and city assessors assess or list all personal property subject to taxation in their respective townships and wards. This they do soon after their election, and make their returns to the County Auditor at the close of May. These returns contain alphabetical lists of the names of persons owning such property, with its estimated value in every case and in the aggregate.

263. The Assessment of Real Property.—Real property is listed only once in ten years, and then in the years divisible by 10. It is done by district assessors who are elected for the purpose at the November election of the years terminating with the figure 9. In the spring of the next year, each assessor is furnished by the Auditor of the county with the necessary materials for making the assessment, including information about the division and ownership of the land according to the last assessment. The Assessor may demand information from the owner of any real prop-

erty, and may, if necessary, employ the services of a surveyor. By the beginning of July he delivers his returns to the Auditor, including in tabulated form lists of the names of persons and companies holding real property, descriptions of all lots and tracts of land, with valuations, and lists of all buildings, etc., with valuations. He also returns lists of the real property that the law exempts from taxation. In the intervals of ten years, new buildings, etc., are listed by the annual assessors.

264. Boards of Equalization.—The returns made to the auditors by the assessors of personal property and the assessors of real estate are not final. Numerous errors may be committed by them, and the law provides means of correcting these errors. Some property is wrongly valued, some that is subject to taxation escapes valuation or listing altogether. Hence the returns of the assessors of both kinds are submitted to boards of equalization for revision. The law provides for annual county and city boards, and for decennial county, city, and State boards. Only cities of the first and second classes have boards independent of the county boards. The annual county board is composed of the Auditor and the three Commissioners; the annual city board, of the Auditor and six citizens appointed for that purpose. Both boards meet at the Auditor's office, but at different times, for the transaction of business. The Auditor lays before each board the returns of the personal property held in the county or city for the year, as delivered by the assessors; also the listing and valuation of the real property as it was settled upon at the last equaliza-

tion. Both boards have power to summon persons to give information concerning property, and to put them under oath. The county board receives legal advice from the prosecuting Attorney, and the city board from the City Solicitor. The assessors who have made the returns are required to attend at least one day during the session and render such assistance as their information permits. The boards hear complaints, and equalize the valuation of real and personal property throughout the county or city. The decennial county and city boards, although constituted somewhat differently from the annual boards, have similar powers. It is their office to revise the returns of the district assessors who list and value the real property once in ten years. The decennial State board is composed of as many members as there are State Senators, and they are elected for the Senatorial districts at the last election of members of the General Assembly before the meeting of the board in question. It is their office to equalize the value of the real property among the several towns and counties in the State. The need of such a board appears when we reflect that the assessors and boards of equalization for cities or counties are almost certain to differ in their standards of valuation. This board meets at Columbus. The various county auditors transmit to it the returns of real property for their respective counties.

265. The Tax-List and Tax-Duplicate.—After the valuation of the listed property has been equalized, the county Auditor makes out, in a book prepared for the purpose, in a form prescribed by the Auditor of

State, a complete schedule of the taxable property in his county and of the respective owners. He then calculates the amount of tax to be paid upon each piece of property at the rates fixed upon for the year by the different taxing authorities, and ascertains the total amount of tax due from each tax-payer. This schedule is the tax-list. He also prepares a true copy of the same, called the tax-duplicate, and delivers this duplicate to the County Treasurer. He charges the full amount to the Treasurer in favor of the county. At the same time he transmits to the Auditor of State, at Columbus, an abstract of the duplicate and an abstract of the value of property in the county as listed by the assessors or as fixed by the county board of equalization.

266. The Collection of Taxes.—The County Treasurer is the collector of all taxes levied in the county. Upon receiving the duplicate from the Auditor, he publishes notices throughout the county of the amount of taxes levied by the State and local authorities, the particular purpose in each case, and the total value. The full amount charged to any tax-payer may be paid before December 20 following, or one half before December 20 and the other half before June 20 of the ensuing year. When taxes are not paid within the prescribed time, the Treasurer adds a penalty of 5 *per centum*; and, after a time, if still unpaid, he proceeds to collect them forcibly according to law. In February and August of each year, the Treasurer settles with the Auditor for the taxes charged against him. Abstracts of these settlements are sent to the Auditor of State.

267. The Distribution of Taxes.—Immediately after each semiannual settlement with the Auditor, the Treasurer pays over, on the Auditor's warrant or order, to township and city treasurers, or other proper officers, the moneys belonging to their respective townships, villages, towns, cities, and school districts. The Auditor of State determines from the abstract with which he has been furnished the amount payable by each county to the State, also the portion of school and other funds due from the State to the county. He then issues his drafts upon the county treasurers in favor of the State Treasurer, or *vice versa*, according as the balance is in favor of one or the other.

CHAPTER XXII

THE MILITIA

268. Persons Liable to Service.—The Militia is the military organization of the State in distinction from the United States Army. It is sometimes called the citizen soldiery. The Constitution¹ orders that all white male citizens, residents of the State, being at least 18 years of age and not more than 45 years, shall be enrolled in the militia, and perform military duty in such manner, not incompatible with the Constitution and laws of the United States, as may be prescribed by law. Members of the army or navy of the United States are not liable to serve in the militia. Persons whose religious faith prohibits the performance of military duty, persons physically incapacitated, also convicts, idiots, and lunatics, are exempted by law from service. The enrollment of the militia is made by the Township Assessors, in connection with the listing of property. The rolls are transmitted to the chief of the Governor's staff. Although all persons who are enrolled are liable to be pressed into service in time of war, only a small number of these belong to the actual military organization of the State.

269. The Ohio National Guard.—The Ohio National Guard is the name borne by the active militia. Membership in this organization is by voluntary enlistment for a term of three years. In time of peace, it may not consist of more than 82 companies of infantry, 8 batteries of light artillery, and 2

¹ Art. IX., Sec. I.

troops of cavalry. These organizations are allotted to such localities of the State as the Governor, who is the commander-in-chief, may direct. When practicable, they are organized, by his authority, into regiments and battalions. An infantry company consists of a captain, a first lieutenant, a second lieutenant, a first sergeant, 4 sergeants, 8 corporals, 2 musicians, a wagoner, and not less than 44 nor more than 83 privates. A regiment is composed of either 8 or 12 companies, is commanded by a colonel, and has a long list of subordinate officers. A cavalry troop consists of a captain, a first lieutenant, a second lieutenant, a first sergeant, 5 sergeants, 8 corporals, 2 trumpeters, 2 farriers, 2 blacksmiths, a saddler, a wagoner, and not less than 30 nor more than 81 privates. A light artillery battery of 4 guns consists of a captain, a first lieutenant, 2 second lieutenants, an assistant surgeon, a first sergeant, a quartermaster-sergeant, a veterinary sergeant, 4 sergeants, 8 corporals, 2 trumpeters, a guidon, and not less than 40 nor more than 80 privates. A battery of 2 guns has half as many men as one of 4 guns, and a smaller number of officers. The field officers of a regiment or battalion are elected by the other officers of companies and troops and the enlisted men of the regiment or battalion; the captain and lieutenants of a company, by the officers and men composing the company. When any military force is called into service, it is commanded by its senior officer, unless the commander-in-chief orders otherwise.

270. Drill.—In any county where the majority of the members of any company, troop, or battery

reside, the County Commissioners are required to provide an armory for the purpose of drill and the storage of uniforms, arms, etc. Every company is required to drill twice a month during half of the year, and once a month during the other half. There is also a week's encampment every year. The same system of tactics and field exercises is used as is prescribed for the standing army of the United States, and the same uniforms are also used.

271. The Unorganized Militia.—The Ohio National Guard must always be called into service before the unorganized militia. Whenever the commander-in-chief deems it insufficient to defend the State, he may call for volunteers to fill up the companies, troops, and batteries to their maximum strength and to form new ones temporarily. If the volunteers are insufficient, he may order drafts from the unorganized militia.

272. The Adjutant-General.—The Adjutant-General is the chief of the Governor's staff, and, in time of peace, the most active member of the militia system. He is Inspector-General of the organized militia, and examines twice a year, either in person or through an officer delegated for that purpose, the condition of every company, troop, and battery, in the State, once in its armory and, if possible, once during the annual encampment. He also serves as a commissary officer, letting contracts for uniforms, arms, ammunition, etc. He directs the distribution of these supplies, and has charge of the State arsenal where the military stores are kept. The Adjutant-General also has supervision and control of the State House, together with its grounds and appurtenances.

CHAPTER XXIII

THE STATE INSTITUTIONS

Perhaps no State is better furnished with educational, reformatory, penal, and curative institutions and institutions for the defective classes than Ohio. The following list will illustrate the great range that these institutions cover:

OHIO STATE UNIVERSITY, COLUMBUS.—The governing authority, seven trustees appointed by the Governor, who hold office for seven years.

OHIO UNIVERSITY, ATHENS.—Governing authority, nineteen trustees, including the Governor of the State and the President of the Institution, who are trustees *ex-officiis*. The other seventeen are appointed by the Governor.

MIAMI UNIVERSITY, OXFORD.—Governing authority, twenty-seven trustees appointed by the Governor for nine years.

BOYS' INDUSTRIAL SCHOOL, NEAR LANCASTER.—Governing authority, five trustees appointed by the Governor for five years.

COMBINED NORMAL AND INDUSTRIAL DEPARTMENT OF WILBERFORCE UNIVERSITY.—Governing authority, six managers appointed by the Governor for three years.

OHIO STATE REFORMATORY, MANSFIELD.—Governing authority, six managers appointed by the Governor for six years.

OHIO PENITENTIARY, COLUMBUS.—Governing authority, six managers appointed by the Governor for five years.

GIRLS' INDUSTRIAL HOME, DELAWARE.—Governing authority, five trustees appointed by the Governor for five years.

SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA.—Governing authority, five trustees appointed by the Governor for five years.

SOLDIERS' AND SAILORS' HOME, SANDUSKY.—Governing authority, five trustees appointed by the Governor for five years.

WORKING HOME FOR THE BLIND, IBERIA.—Governing authority, three trustees appointed by the Governor for three years.

COLUMBUS STATE HOSPITAL FOR THE INSANE.—Governing authority, five trustees appointed by the Governor for five years.

ATHENS STATE HOSPITAL FOR THE INSANE.—Governing authority, five trustees appointed by the Governor for five years.

CLEVELAND STATE HOSPITAL FOR THE INSANE.—Governing authority, five trustees appointed by the Governor for five years.

DAYTON STATE HOSPITAL FOR THE INSANE.—Governing authority, five trustees appointed by the Governor for five years.

LONGVIEW HOSPITAL FOR THE INSANE, CARTHAGE.—Governing authority, five trustees appointed by the Governor for five years.

TOLEDO STATE HOSPITAL FOR THE INSANE.—Governing authority, five trustees appointed by the Governor for five years.

MASSILLON STATE HOSPITAL.—Governing authority, five trustees.

OHIO HOSPITAL FOR EPILEPTICS, GALLIPOLIS.

INSTITUTION FOR THE BLIND, COLUMBUS.—Governing authority, five trustees appointed by the Governor for five years.

INSTITUTION FOR THE EDUCATION OF THE DEAF AND DUMB.—Governing authority, five trustees appointed for five years.

INSTITUTION FOR THE EDUCATION OF FEEBLE-MINDED YOUTH, COLUMBUS.—Governing authority, five trustees appointed for five years.

CHAPTER XXIV

THE GOVERNORS OF OHIO, WITH THEIR COUNTIES AND PERIODS OF SERVICE

273. The following list gives the names of the Governors of the State, with the Counties in which they lived at the time of their election, and their time of service:¹

Edwin Tiffin	Ross	1803-1807
Thomas Kirker.....	Adams	1807-1808
Samuel Huntington	Trumbull	1809-1810
Return Jonathan Meigs....	Washington	1811-1814
Othniel Looker.....	Hamilton	1814-
Thomas Worthington	Ross	1815-1818
Ethan Allen Brown.....	Hamilton	1819-1822
Allen Trimble.....	Highland	1822-
Jeremiah Morrow.....	Warren.....	1823-1826
Allen Trimble.....	Highland.....	1827-1830
Duncan McArthur	Ross	1831-1832
Robert Lucas	Pike	1833-1836
Joseph Vance.....	Champaign	1837-1838
Wilson Shannon.....	Belmont	1839-1840
Thomas Corwin	Warren.....	1841-1842
Wilson Shannon.....	Belmont.....	1843-1844
Thomas W. Bartley.....	Richland.....	1844-
Mordecai Bartley.....	Richland.....	1845-1846
William Bebb.....	Butler	1847-1848
Seabury Ford.....	Geauga	1849-1850
Reuben Wood	Cuyahoga	1851-1853
William Medill.....	Fairfield	1853-1855
Salmon P. Chase	Hamilton	1856-1859
William Dennison	Franklin	1860-1861

¹ This list is given on the authority of *Ohio Statesmen and Hundred Year Book from 1788 to 1892 inclusive*, by W. A. Taylor, Columbus, 1892—a very useful manual.

David Tod	Mahoning.....	1862-1863
John Brough	Cuyahoga.....	1864-1865
Charles Anderson.....	Montgomery	1865-
Jacob D. Cox	Trumbull	1866-1867
Rutherford B. Hayes	Hamilton	1868-1871
Edward F. Noyes.....	Hamilton	1872-1873
William Allen.....	Ross.....	1874-1875
Rutherford B. Hayes	Sandusky	1876-1877
Thomas L. Young.....	Hamilton	1877-
Richard M. Bishop	Hamilton	1878-1879
Charles Foster.....	Seneca.....	1880-1883
George Hoadly	Hamilton	1884-1885
Joseph B. Foraker.....	Hamilton	1886-1889
James E. Campbell.....	Butler	1890-1891
William McKinley.....	Stark.....	1892-1895
Asa S. Bushnell.....	Clark.....	1896-

The gubernatorial term in Ohio has always been two years. Under the old Constitution it began and ended with the odd years, 1803, 1805, etc.; under the new Constitution it begins with the even years, 1852, 1854, etc. Reuben Wood's first term was 1851-53, but the adoption of the new Constitution cut it short; his second term was 1852-53, which he did not fill out.

Edward Tiffin resigned in 1807 to accept the office of United States Senator, and Thomas Kirker, Speaker of the Senate,¹ filled out the term.

In October, 1807, Return J. Meigs was elected Governor over Nathaniel Massie, who contested the election on the ground that Meigs had not been a resident of the State for four years next preceding the election as the Constitution required, and the General Assembly in joint convention decided that Meigs was not eligible. However, the office was not given to

¹ Under the first Constitution Ohio had no Lieutenant-Governor, and the Speaker of the Senate succeeded in the case of a vacancy in the office of Governor.

Massie, who did not have a majority, but Speaker Kirker continued to discharge the duties of the office until the close of the term.²

Governor Meigs resigned the Governorship in March, 1814, to accept the office of Postmaster-General of the United States, and Othniel Looker, Speaker of the Senate, filled out the term.

Governor Brown resigned in January, 1822, to become Senator of the United States, and Allen Trimble, being the Speaker of the Senate, filled out the term.

Governor Shannon resigned in April, 1844, to accept the office of Minister to Mexico, and Thomas W. Bartley succeeded, being the Speaker of the Senate.

Governor Wood resigned in July, 1853, to go to Valparaiso, Chile, as consul, and was succeeded by Lieutenant-Governor Medill, who was also elected for the ensuing term.

Governor Brough died in August, 1865, and was succeeded by the Lieutenant-Governor, Charles Anderson.

Governor Hayes resigned March, 1877, to become President of the United States, and the term was filled out by Lieutenant-Governor Thomas L. Young.

² An account of the contest between Meigs and Massie for the Governorship, with documents, will be found in David Meade Massie's *Nathaniel Massie, a Pioneer of Ohio*, Chap. V.

CHAPTER XXV.

THE GOVERNMENT OF OHIO IN OUTLINE.

274. The Government of Ohio Constitutional.

—The meaning of this phrase is that the Government of the State is carried on under a constitution. In other words, the general features of the government are created by the Constitution.

275. Source of the Constitution.—As related elsewhere, the present Constitution of the State was framed by a convention which sat in the years 1850-51. The members of this convention were elected by the people in accordance with law for the performance of that duty, Moreover, the Constitution did not take effect until it had received the approval of the people at a regularly conducted election. Hence the source of the Constitution is the people themselves. This is expressly declared in the enacting clause, viz.: “We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.” The Constitution consists of sixteen articles and a schedule.

276.—ARTICLE I. This Article, which contains twenty sections, is called the Bill of Rights. It is a formal declaration of rights of the people. It consists of commands and prohibitions addressed to the Government of the State, with a view to securing to the people their liberties. The several declarations are such as

these: "All men are by nature free and independent, and have certain inalienable rights;" "All political power is inherent in the people;" "No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State."

277.—ARTICLE II. This Article contains thirty-two sections, and deals with the Legislative branch of the Government. It begins with this declaration: "The legislative power of the State shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives." It then defines the qualifications of Senators and Representatives, the manner of their election and their term of office; specifies the privileges of the members and the powers of the two Houses separately; lays down some general rules for the transaction of business, and enumerates some of the powers of the Houses and of the Assembly, and imposes certain restrictions on legislative power.

278.—ARTICLE III. This Article comprises twenty sections, and deals with the Executive branch of the Government. It begins with the declaration: "The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and an Attorney-General." Section 5 vests the supreme executive power of the State in the Governor. The Article prescribes how the several executive officers shall be elected, and for what time they shall hold office. More particularly, it defines with considerable minuteness the powers and duties of the Supreme Executive, or the Governor.

279.—ARTICLE IV. This Article, consisting also of twenty sections, is occupied with the Judiciary. It

vests the judicial power of the State in a Supreme Court, Circuit Courts, Courts of Common Pleas, Courts of Probate, Justices of the Peace, and in such other courts inferior to the Supreme Court, in one or more counties, as the General Assembly may from time to time establish. The Article further deals with the organization of the courts, their jurisdiction, judicial districts, the election of judges, and their terms, compensation, and removal from office.

280.—ARTICLES V.—XV.—These Articles deal with numerous subjects: V. With the elective franchise; VI. with education; VII. with public institutions; VIII. with public debts and public works; IX. with the militia; X. with county and township organizations; XI. with the apportionment of Senators and Representatives and the division of the State into representative districts; XII. with finance and taxation; XIII. with corporations; XIV. (now obsolete) with the codification of the State laws; XV. with miscellaneous subjects; XVI. with amendments. The Schedule, most or all of which is now obsolete, related to carrying on the State Government while the transition was being made from the old Constitution to the new one, and to the mode of submitting the new one to the people for their ratification.

281. AMENDMENTS.—The Constitution provides for its own amendment, as follows:

1. The amendment must first be proposed, as it is called. This can be done only when three-fifths of the members elected to each House of the General Assembly, on a yea and nay vote, declare themselves in favor of the amendment.

2. The amendment must then be published in at least one newspaper in each county of the State where a newspaper is published, for six months preceding the next election held for Senators and Representatives.

3. At this election the amendment shall be submitted to the qualified voters for their approval or rejection. If a majority of all the voters voting at the election vote for it, the amendment is adopted and it becomes a part of the Constitution. In other words, the amendment is now said to be ratified.

4. Two or more amendments may be submitted at the same time, but they must be so submitted as to enable the electors to vote on each one separately.

282. A NEW CONSTITUTION.—The Constitution also provides for its general revision, or for the framing of one altogether new. The steps are these:

1. If two-thirds of each House shall vote to call a convention to revise, amend, or change the Constitution, the question shall be submitted to the voters at the next election of members of the General Assembly.

2. If a majority of the voters voting at such election vote in the affirmative, then the General Assembly shall, by law enacted at its next session, provide for calling a convention, which shall consist of as many members as the House of Representatives, and shall meet within three months of the time of their election.

3. The constitution that this convention frames must, before it can take effect, or before it becomes a constitution at all, be submitted to the people for their approval or disapproval the same as an amendment.

4. The Constitution provides that in the year 1871, and every twentieth year thereafter, the General

Assembly must submit the question of calling a convention to the voters of the State, and that if a majority of all the voters voting shall vote in the affirmative, then such convention shall be called in the manner described under heads 2 and 3.

In 1871 a majority of the voters of the State declared themselves in favor of a convention, and one was duly called; but the constitution framed, on its submission to the people, was voted down by a large majority. In 1891 the question of calling a convention was again submitted to the voters, but this time they declared themselves against the proposition. In March, 1896, the General Assembly took the requisite action for submitting at the next general election the question of calling a new convention.

283. Central and Local Authorities.—It has already been explained that the people of Ohio live under two governments, viz.—Congress and the State Legislature, the President and the Governor, the National Courts and the State Courts. But this is not all. The State itself contains several minor jurisdictions, or governments, that are so nicely adjusted one to another and to the Government of the State as not to clash or jar. These minor governments are the townships, cities, and counties. The same state of things is found in all the other States of the Union. It may be remarked that the people of the United States place a high value on local government; they believe that such a division of powers leads to liberty, economy, and efficiency. Local self-government is considered one of the glories of the English-speaking race.

CHAPTER XXVI

RELATIONS OF THE STATE TO THE UNION.

284. The Supremacy of the United States.—

We have seen in previous paragraphs that the United States are a Federal Government, and that Ohio is not a state in the sense of being a nation or an independent power. Ohio is merely a member of the Federal Union. The State is forbidden, like the other States, to enter into treaties, coin money, lay duties on imports, keep troops and ships of war in time of peace, and to perform various other acts of sovereignty that are essential to a nation (Constitution of the United States, Art. 1, Sec. 9). More than this, the Constitution, laws, and treaties of the United States are the supreme law of the land, and State judges are bound thereby, anything in State Constitutions or laws to the contrary notwithstanding. This means that the State judges, in administering their offices, when they find the State Constitution or laws at variance with those of the United States, must reject the former and hold to the latter (Constitution, Art. VI., Sec. 2). And again, to secure the supremacy of the National authority, it is further provided that all Senators and Representatives, and all executive and judicial officers, both of the United States and of the States, must take an oath or affirmation to support the Constitution of the United States (Art. VI., Sec. 3.)

285. The State to Perform National Functions.

—The State, including both the people and the

Government, are therefore subject to the authority of the United States, or to the supreme law of the land. But, more than this, the State is called upon to assist the United States in carrying on the National Government. For example, the State officers conduct the elections of members of the National House of Representatives, the State Legislature chooses the National Senators, and the State appoints the Electors of the President and Vice-President.

286. The National House of Representatives.—Here two steps need to be taken.

1. Members of the National House of Representatives are apportioned by Congress among the States according to their population once in ten years. Under the last apportionment, twenty-one members fell to Ohio. The law apportioning the members among the States prescribes that they shall be elected by districts, containing as nearly as possible an equal number of inhabitants and composed of contiguous territory. In other words, the district cannot be made of two or more detached pieces of territory. The State is districted, as it is called, by the Legislature, commonly once in ten years. These districts are known as the Congressional districts.

2. The members of the House are elected every second year by the people of the States. The elections are held in all the districts of the State, and in nearly all the States also, on the same day, Tuesday after the first Monday in November of every even year, 1894, 1896, etc. All persons may vote at these elections who are authorized by the State law to vote for members of the State House of Representatives.

The election is conducted by the State officers in precisely the same manner as the State elections. The National Government has handed the whole matter over to the States. If a vacancy occurs in any State, the Governor calls a special election of the district to fill it. (Constitution, Art. I., Sec. 2. See also paragraphs 321, 325-329 of this work.)



287. Senators of the United States.—The Senators of the United States are chosen, two from a State, by the State Legislature for six years. Unlike

the Representatives, Congress by law very carefully defines the manner of conducting the election of Senators. (The process is described in Part III. of this work, paragraphs 321-324. See also the Constitution, Art. I., Sec. 3.)

288. Presidential Electors.—Every State has as many Presidential Electors as it has Senators and Representatives in Congress. Ohio, therefore, has twenty-three. These Electors may be appointed in any way that the Legislature may direct (Constitution, Article III., Section 2, and Amendment XII.). The Legislature has directed that they shall be appointed by the people at a popular election. The other States have done the same thing. The time of these elections is fixed by Congress, and is uniform in all the States, viz.: Tuesday after the first Monday of November of every second even year, 1896, 1900, etc. The election is conducted in all respects by the State. The qualifications for voting are the same as for Representatives and State officers generally. (The mode of electing the President and Vice-President is described in the present work, Chapter XXXIV.)

289. State Courts.—The United States has a complete system of courts of their own (described in Chapter XXXVIII. of this work). Nevertheless the National authorities sometimes use the State Courts to enforce the National laws, as in criminal offenses arising under the postal laws.

290. The State Militia.—The militia system of Ohio is described in another chapter. The Constitution of the United States provides that Congress may provide for organizing, arming, and disciplining the

militia of the States. It provides also for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion. The term of service in such cases may be nine months in the year. In the Civil War, the militia of Ohio were called into the National service three several times. Furthermore, the President is the Commander-in-Chief of the militia when they are employed in the National service, the same as of the regular troops (Constitution, Art. I., Sec. 8, Clauses 15-16; Art. III., Sec. 2, Clause 1).

291. Importance of the Foregoing Duties.—It is evident from the foregoing that a State, as Ohio, stands in a very important relation to the Union. If the States should refuse or neglect to elect Representatives and Senators, there would be no Congress. If they should refuse or neglect to appoint Presidential Electors, there would be no President or Vice-President. In either emergency, the Union would fall to pieces. No better proof than these facts can be given that the State Governments are indispensable to the existence of the National Government.

292. Compensation to the State.—The States are richly compensated by the Union for their co-operation in carrying on the National system. This single provision of the Constitution is of itself an ample return: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application by the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence." (Art. IV., Sec. 4.) It is the Union that makes the people of the States a great nation.

We have now finished our survey of the Government of Ohio. All features of that government have been touched upon. It is very evident that, by itself, this government would be exceedingly imperfect. Many powers, and some of the most important powers, that are called for by the needs of society we have not found in the survey. We have found nothing about foreign relations or foreign commerce, nothing about an army or a navy, nothing about the mails and post-offices, nothing about coining money and regulating its value, and many other things that belong to government in the full sense of that term. Where are these missing powers? The answer is, They belong to the other half of our Federal System of Government. In other words, these missing powers are vested in the Government of the United States, which forms the subject of Part III. of this work.

PART III.

The Government of the United States.

CHAPTER XXVII.

THE MAKING OF THE GOVERNMENT.

The American Government. Sections 66-222 inclusive.

The United States, both as forty-five individual States and as a Nation, are an outgrowth of the Thirteen English Colonies planted on the eastern shore of North America in the years 1607-1732. The process by which this change was effected, will be briefly described in this chapter.

293. **The Colonial Governments.**—The Kings of England gave to the companies, proprietors, and associations that planted the Colonies certain political powers and rights. These powers and rights were formally granted in documents called charters and patents; they were duly protected by regular governments, and so became the possession of the people of the Colonies. While differing in details, these governments were alike in their larger features. There was in every Colony (1) an Assembly or popular house of legislation; (2) a Council, which served as an upper house of legislation in most of the Colonies and as an

advisory body to the governor in all of them; (3) a Governor, and (4) Courts of Law. The members of the assembly were chosen by the qualified voters. The members of the council and the governors were elected by the people in Connecticut and Rhode Island, and were appointed by the proprietors in Maryland and Pennsylvania, and by the king in the other colonies. The judges were generally appointed by the king or his representatives. Powers of local government were distributed to local officers in every Colony.

294. The Home Government.—The Kings who granted the charters and patents, for themselves and their descendants, guaranteed to their subjects who should settle in the Colonies and their children, all liberties, franchises, and immunities of free denizens and native subjects within the realm of England. Previous to the troubles that led to the Revolution, the Home government commonly left the Colonies practically alone as free states to govern themselves in their own way. Still they were colonies. The charters enjoined them not to infringe the laws of England, and Parliament passed an act expressly declaring that all laws, by-laws, usages, and customs which should be enforced in any of them contrary to any law made, or to be made, in England relative to said Colonies, should be utterly void and of none effect. Moreover, the power to decide what was so contrary the Home government retained in its own hands.

295. Dual Government.—Thus from the very beginning the Colonies were subject to two political authorities; one their own Colonial governments, the other the Crown and Parliament of England. In other words, government was double, partly local and partly general. This fact should be particularly noted, for it is the hinge upon

which our present dual or federal system of government turns. The American, therefore, as has been said, has always had two loyalties and two patriotisms.

296. Division of Authority.—In general, the line that separated the two jurisdictions was pretty plainly marked. It had been traced originally in the charters and patents, and afterwards usage, precedent, and legislation served to render it the more distinct. The Colonial governments looked after purely Colonial matters; the Home government looked after those matters that affected the British Empire. The Colonies emphasized one side of the double system, the King and Parliament the other side. There were frequent disagreements and disputes; still the Colonists and the Mother Country managed to get on together with a good degree of harmony until Parliament, by introducing a change of policy, brought on a conflict that ended in separation.

297. Causes of Separation.—The right to impose and collect duties on imports passing the American custom houses, the Home government had from the first asserted and the Colonies conceded. But local internal taxation had always been left to the Colonial legislatures. Beginning soon after 1760, or about the close of the war with France, which had left the Mother Country burdened with a great debt, Parliament began to enforce such taxes upon the people directly. These taxes the Colonies resisted on the ground that they were imposed by a body in which they were not represented or their voice heard. Taxation without representation they declared to be tyranny. At the same time, the acts relative to American navigation were made more rigorous, and vigorous measures were taken to enforce them. In the meantime the Colonies had greatly increased in

numbers and in wealth, and the idea began to take root that such a people, inhabiting such a country, could not permanently remain dependent upon England but must become an independent power. The Stamp tax was one of the objectionable taxes.

298. Independence.—The Home government dropped or changed some of its obnoxious measures, but still adhered to its chosen policy. New and more obnoxious measures were adopted, as the Massachusetts Bay Bill and the Boston Port Bill. The Congresses of 1765 and 1774 protested, but to no real purpose. Some of the Colonies, like Massachusetts, began to take measures looking to their defense against aggression; and the attempt of General Gage, commanding the British army in Boston, to counteract these measures led to the battle of Lexington, April 19, 1775, and immediately brought on the Revolutionary war. All attempts at composing the differences failing, and the theater of war continuing to widen, the American Congress, on July 4, 1776, cut the ties that bound the Thirteen Colonies to England. After eight years of war the British government acknowledged American Independence.

299. The Political Effects of Independence.—The Declaration of Independence involved two facts of the greatest importance. One was the declaration that the Colonies were free and independent States, absolved from all allegiance to the British crown. The other was the formation of the American Union. The original members of the Union as States and the Union itself were due to the same causes. The language of the Declaration is, "We,the representatives of the United States of America, in general congress assembled, . . . do, in the name, and by the authority, of the good people of these Colonies, solemnly publish and declare" their independence.

The States took their separate position as a nation among the powers of the earth. Thus, before the Revolution there were Colonies united politically only by their common dependence upon England; since the Revolution there have been States united more or less closely in one federal state or union.

300. The Continental Congress.—The body that put forth the Declaration of Independence, known in history as the Continental Congress, had, in 1775, assumed control of the war in defense of American rights. It had adopted as a National army the forces that had gathered at Boston, had made Washington its commander-in-chief, and had done still other things that only governments claiming nationality can do. And so it continued to act. First the American people, and afterwards foreign governments, recognized the Congress as a National government. But it was a revolutionary government, resting upon popular consent or approval, and not upon a written constitution. A government of a more regular and permanent form was called for, and to meet this call Congress, in 1777, framed a written constitution to which was given the name, "Articles of Confederation and Perpetual Union." Still Congress had no authority to give this constitution effect, and could only send it to the States and ask them for their ratifications. Some delay ensued, and it was not until March 1, 1781, that the last ratification was secured and the Articles went into operation.

301. The Confederation.—The government that the Articles provided for was very imperfect in form. It consisted of but one branch, a legislature of a single house called Congress. Such executive powers as the Government possessed were vested in this body. The States appointed delegates in such manner as they saw fit, and had an equal voice in deciding all questions. Nine States were

necessary to carry the most important measures, and to amend the Articles required unanimity. In powers the Government was quite as defective as in form. It could not enforce its own will upon the people, but was wholly dependent upon the States. It could not impose taxes or draft men for the army, but only call upon the States for money and men ; and if the States refused to furnish them, which they often did, Congress had no remedy. Much of the disaster and distress attending the war grew out of the weakness of Congress, and when peace came, the States became still more careless, while Congress became weaker than ever. Meantime the state of the country was as unsatisfactory as that of the Government. The State governments were efficient, but they looked almost exclusively to their own interests. Commercial disorder and distress prevailed throughout the country. As early therefore as 1785 the conviction was forcing itself upon many men's minds that something must be done to strengthen the Government or the Union would fall to pieces.

302. Calling of the Federal Convention.—In 1785 Commissioners representing Virginia and Maryland met at Alexandria, in the former State, to frame a compact concerning the navigation of the waters that were common to the two States. They reported to their respective Legislatures that the two States alone could do nothing, but that general action was necessary. The next year commissioners representing five States met at Annapolis to consider the trade of the country, and these commissioners concluded that nothing could be done to regulate trade separate and apart from other general interests. So they recommended that a general convention should be held at Philadelphia to consider the situation of the United States, to devise further pro-

visions to render the Articles of Confederation adequate to the needs of the Union, and to recommend action that, when approved by Congress and ratified by the State Legislatures, would effectually provide for the same. This recommendation was directed to the Legislatures of the five States, but copies of it were sent to Congress also and to the Governors of the other eight States. So in February, 1787, Congress adopted a resolution inviting the States to send delegates to such a convention to be held in Philadelphia in May following. And the Legislatures of all the States but Rhode Island did so.

303. The Constitution Framed.—On May 25, 1787, the Convention organized, with the election of Washington as President. It continued in session until September 17, when it completed its work and sent our present National Constitution, exclusive of the fifteen Amendments, to Congress. In framing this document great difficulties were encountered. Some delegates favored a government of three branches; others a government of a single branch. Some delegates wanted a legislature of two houses; some of only one house. Some delegates wished the representation in the houses to be according to the population of the States; others were determined that it should be equal, as in the Old Congress. Differences as to the powers to be exercised by Congress were equally serious. There were also controverted questions as to revenue, the control of commerce, the slave trade, and many other matters. Furthermore, the opinions that the delegates held were controlled in great degree by State considerations. The large States wanted representation to be according to population; a majority of the small ones insisted that it should be equal. The commercial States of the North said Congress should control the

subject of commerce, which the agricultural States of the South did not favor. Georgia and the Carolinas favored the continuance of the slave trade, to which most of the other States were opposed. But progressively these differences were overcome by adjustment and compromise, and, at the end, all of the delegates who remained but three signed their names to the Constitution, while all the States that were then represented voted for its adoption. What had been done, however, was to frame a new constitution and not to patch up the old one. The body that framed it is called the Federal Convention.

304. The Constitution Ratified.—The Convention had no authority to make a new constitution, but only to recommend changes in the old one. So on the completion of its work, it sent the document that it had framed to Congress with some recommendations. One of these was that Congress should send the Constitution to the States, with a recommendation that the Legislatures should submit it to State conventions to be chosen by the people, for their ratification. Congress took such action, and the States, with the exception of Rhode Island, took the necessary steps to carry out the plan. Ultimately every State in the Union ratified the Constitution ; but North Carolina and Rhode Island did not do so until the new Government had been some time in operation. Nor was this end secured in several of the other States, as Massachusetts, New York, and Virginia, without great opposition.

305. Friends and Enemies of the Constitution.—Those who favored the ratification of the Constitution have been divided into these classes: (1) Those who saw that it was the admirable system that time has proved it to be; (2) those who thought it imperfect but still be-

lieved it to be the best attainable government under the circumstances; (3) the mercantile and commercial classes generally, who believed that it would put the industries and trade of the country on a solid basis. Those who opposed it have been thus divided: (1) Those who resisted any enlargement of the National Government, for any reason; (2) those who feared that their importance as politicians would be diminished; (3) those who feared that public liberty and the rights of the States would be put in danger; (4) those who were opposed to vigorous government of any kind, State or National.¹

306. The New Government Inaugurated.—The new Constitution was to take effect as soon as nine States had ratified it, its operation to be limited to the number ratifying. When this condition had been complied with, the Continental Congress enacted the legislation necessary to set the wheels of the new Government in motion. It fixed a day for the appointment of Presidential Electors by the States, a day for the Electors to meet and cast their votes for President and Vice-President, and a day for the meeting of the new Congress. The day fixed upon for Congress to meet was March 4, 1789; but a quorum of the House of Representatives was not secured until April 1, and of the Senate not until April 6, owing to various causes. On the second of these dates the Houses met in joint convention to witness the counting of the Electoral votes. Washington was declared elected President, John Adams Vice-President. Messengers were at once sent to the President- and Vice-President-elect summoning them to New York, which was then the seat of government. Here Washington was inaugurated April 30. The Legislative and Executive branches of the Government were now in motion.

¹G. T. Curtis: *History of the Constitution*, Vol. II, pp. 495, 496.

CHAPTER XXVIII.

AMENDMENTS MADE TO THE CONSTITUTION.

The American Government. Sections 457-460; 467-474; 536-537; 604-607; 623-652.

It was anticipated that amendments to the Constitution would be found necessary, and a method was accordingly provided for making them. This method embraces the two steps that will now be described.

307. Proposing an Amendment.—This may be done in either of two ways. First, Congress may propose an amendment by a two-thirds vote of each House; secondly, Congress shall, on the application of the Legislatures of two-thirds of the States, call a convention of the States for that purpose. The first way is evidently the simpler and more direct of the two, and it is the one that has always been followed.

308. Ratifying an Amendment.—This also may be done in one of two ways. One is to submit the amendment to the Legislatures of the States, and it becomes a part of the Constitution when it is ratified by two-thirds of them. The other way is to submit the amendment to conventions of the States, and it becomes binding when two-thirds of such conventions have given it their approval. Congress determines which of the two ways shall be adopted. The first is the simpler and more direct, and it has been followed in every instance.

309. Amendments I-X.—One of the principal objections urged against the Constitution when its ratification was pending in 1787-88, was the fact that it lacked a bill of rights. Such a bill, it may be observed, is a

statement of political principles and maxims. The States had fallen into the habit of inserting such bills in their constitutions. At its first session, Congress undertook to remedy this defect. It proposed twelve amendments, ten of which were declared duly ratified, December 15, 1791. These amendments, numbered I to X, are often spoken of as a bill of rights.

310. Amendment XI.—Article III of the Constitution made any State of the Union suable by the citizens of the other States and by citizens or subjects of foreign states. (See section 2, clause 1.) This was obnoxious to some of the States, and when such citizens began to exercise their right of suing States a movement was set on foot to change the Constitution in this respect. An amendment having this effect was duly proposed, and was declared ratified January 8, 1798.

311. Amendment XII.—According to the original Constitution, the members of the Electoral colleges cast both their ballots for President and neither one for Vice-President. The rule was that the candidate having most votes should be President, and the one having the next larger number Vice-President, provided in both cases it was a majority of all the Electors. In 1800 it happened that Thomas Jefferson and Aaron Burr had each an equal number of votes and a majority of all. The Democratic-Republican party, to which they belonged, had intended Jefferson for the first place and Burr for the second. The election went to the House of Representatives, and was attended by great excitement. Steps were taken to prevent a repetition of such a dead-lock. This was accomplished by an amendment declared ratified September 25, 1804.

312. Amendment XIII.—Slavery was the immediate exciting cause of the Civil War, 1861–65. In the course

of the war President Lincoln, acting as commander-in-chief of the army and navy of the United States, declared all the slaves held in States and parts of States that were engaged in the war against the Union free. The other Slave States, Delaware, Maryland, Kentucky, Tennessee, and Missouri, and parts of Louisiana and Virginia, his power did not reach as they were not in rebellion. The conviction grew strong throughout the country that slavery should not survive the war. This conviction asserted itself in Amendment XIII, which took effect December 18, 1865.

313. Amendment XIV.—At the close of the Civil War Congress was called upon to deal with the important question of readjusting the States that had seceded from the Union. It was thought necessary to incorporate certain new provisions into the Constitution. So an elaborate amendment was prepared and duly ratified. It was declared in force July 28, 1868. The most far-reaching of the new provisions were those in relation to citizenship contained in the first section.

314. Amendment XV.—Down to 1870 the States had fixed the qualifications of their citizens for voting to suit themselves. At that time most of the States, and all of the Southern States, denied suffrage to the negroes. The emancipation of the slaves, together with Amendment XIV, made the negroes citizens of the United States and of the States where they resided. But the negroes had no political power, and so no direct means of defending their civil rights. To remedy this state of things a new amendment was proposed and ratified, bearing the date of March 30, 1870. It declared that the right of citizens to vote should not be abridged, either by the United States or by any State, on account of race, color, or previous condition of servitude.

CHAPTER XXIX.

THE SOURCE AND NATURE OF THE GOVERNMENT.

The American Government. Sections 223-262; 610-613; 615-620; 655-658; 763-772.

The source of the Government of the United States, and some of its leading features, are either stated or suggested in the first paragraph of the Constitution. This paragraph is commonly called the Preamble, but it is really an enacting clause, since it gives the instrument its whole force and validity.

315. The Preamble. — “We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

The following propositions are either asserted or implied in this language :—

1. The Government proceeds from the people of the United States. They ordain and establish it. It is therefore a government of the people, by the people, and for the people

2. The ends for which it is ordained and established are declared. It is to form a more perfect union, establish justice, etc.

3. It is a constitutional government. It rests upon a written fundamental law. On the one part it is opposed



to an absolute government, or one left to determine its own powers, like that of Russia; and on the other, it is opposed to a government having an unwritten constitution, consisting of maxims, precedents, and charters, like that of England.

4. The terms Union and United States suggest that it is a federal government. The peculiarity of a federal state is that local powers are entrusted to local authorities, while general powers are entrusted to general or national authorities. How this division of powers originated, and how it affected the country in 1785-1789, was pointed out in the last chapter. The government of a State has been described in Part II. of this work. Part III. is devoted to the Government that is over all the States.

5. The same terms suggest that the Government is one of enumerated powers. It must be remembered that when the Constitution was framed thirteen State governments were already in existence, and that no one dreamed of destroying them or of consolidating them into one system. The purpose was rather to delegate to the new Government such powers as were thought necessary to secure the ends named in the Preamble, and to leave to the States the powers that were not delegated, unless the contrary was directly specified.

316. The Constitution in Outline.—The Constitution is divided into seven Articles, which are again divided into sections and clauses.

ARTICLE I. relates to the Legislative power.

ARTICLE II. relates to the Executive power.

ARTICLE III. relates to the Judicial power.

ARTICLE IV. relates to several subjects, as the rights and privileges of citizens of a State in other States, the surrender of fugitives from justice, the admission of

new States to the Union, the government of the National territory, and a guarantee of a republican form of government to every State.

ARTICLE V., a single clause, relates to the mode of amending the Constitution.

ARTICLE VI. relates to the National debt and other engagements contracted previous to 1789 and the supremacy of the National Constitution and laws.

ARTICLE VII., consisting of a single sentence, prescribes the manner in which the Constitution should be ratified, and the time when it should take effect.

The fifteen Amendments relate to a variety of subjects, as has been explained in Chapter XXVIII.

317. The Three Departments.—It has been seen that the Constitution distributes the powers of government among three departments, which it also ordains and establishes. This was done partly to secure greater ease and efficiency of working, and partly as a safeguard to the public liberties. Absolute governments are simple in construction, concentrating power in the hands of one person, or of a few persons; while free governments tend to division and separation of powers. In the words of Mr. Madison: “The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”¹

¹ *The Federalist*, No. 47.

CHAPTER XXX.

THE COMPOSITION OF CONGRESS AND THE ELECTION OF ITS MEMBERS.

The American Government. Sections 263-301; 324-330.

318. Congress a Dual Body.—From an early time, the English Parliament has consisted of two chambers, the House of Commons and the House of Lords. Such a legislature is called bicameral, as opposed to one that is unicameral. The words mean consisting of two chambers and of one chamber. The great advantage of a bicameral legislature is that it secures fuller and more deliberate consideration of business. One house acts as a check or balance to the other; or, as Washington once put it, tea cools in being poured from the cup into the saucer. Countries that Englishmen have founded have commonly followed the example of the Mother Country in respect to the duality of their legislatures. Such was the case with the Thirteen Colonies, but such was not the case with the American Confederation from 1775 to 1789. In the Convention that framed the Constitution, the question arose whether the example of England and of the Colonies, or the example of the Confederation, should be followed. It was finally decided that all the legislative powers granted to the new Government should be vested in a Congress

which should consist of a Senate and a House of Representatives.

319. Composition of the Two Houses.—The House of Representatives is composed of members who are apportioned to the several States according to their respective numbers of population, and are elected for two years by the people of the States. The Senate is composed of two Senators from each State who are chosen by the Legislatures thereof, and each Senator has one vote.

The composition of Congress at first sharply divided the Federal Convention. Some members wanted only one house. Others wanted two houses. Some members were determined that the States should be represented in the new Congress equally, as had been the case in the old one. Others were determined that representation should be according to population. These controversies were finally adjusted by making two houses, in one of which representation should be equal and in the other proportional. This arrangement explains why New York and Nevada have each two Senators, while they have respectively thirty-four members and one member in the House of Representatives. This equality of representation in the Senate is the most unchangeable part of the National Government. The Constitution expressly provides that no State shall, without its own consent, ever be deprived of its equal suffrage in the Senate, which is equivalent to saying that it shall never be done at all. No such provision is found in relation to any other subject.

320. Qualifications of Representatives and Senators.—A Representative must be twenty-five years old, and must be a citizen of the United States of at least

seven years' standing. A Senator must be thirty years of age and must be nine years a citizen. The Representative and the Senator alike must be an inhabitant of the State in which he is elected or for which he is chosen. Previous absence from the State, even if protracted, as in the case of a public minister or consul to a foreign country, or a traveler, does not unfit a man to sit in either house. Representatives are not required by law to reside in their districts, but such is the custom.

No person can be a Senator or Representative, or an Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who having once taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an Executive or Judicial officer of any State, to support the Constitution of the United States, has afterwards engaged in insurrection or rebellion against the same, or given assistance to their enemies. But Congress may remove this disability by a two-thirds vote of each house.

321. Regulation of Elections.—The times, places, and manner of electing Senators and Representatives are left, in the first instance, to the Legislatures of the States, but they are so left subject to the following rule: "Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators." Defending this rule in 1788, Mr. Hamilton said: "Every government ought to contain in itself the means of its own preservation; while it is perfectly plain that the States, or a majority of them, by failing to make the necessary regulations, or by making improper ones, could break up or prevent the first elections of the Houses of

Congress." The right to name the places where Senators shall be chosen is denied to Congress for a very sufficient reason. If Congress possessed that power it could determine, or at least largely influence, the location of the State capitals.

322. Elections of Senators.—Previous to 1866, the Legislature of every State conducted these elections as it pleased. Sometimes the two houses met in joint convention, a majority of the whole body determining the choice. Sometimes the two houses voted separately, a majority of each house being required to elect. It is obvious that the two methods might operate very differently. If the same political party had a majority in both houses, the result would probably be the same in either case; but if the two houses were controlled by different parties, then the party having the majority of votes on a joint ballot would probably elect the Senator. If the second plan was followed, and the two houses differed in regard to a choice, there were delays, and elections were sometimes attended by serious scandals. So Congress, in 1866, passed a law providing that the Legislature next preceding the expiration of a Senator's term, in any State, shall, on the second Tuesday after its meeting and organization, proceed to elect a Senator in the following manner:—

1. Each house votes, *viva voce*, for Senator. The next day at twelve o'clock the two houses meet in joint session, and if it appears from the reading of the journals of the previous day's proceedings that the same person has received a majority of all the votes cast in each house, he is declared duly elected.

2. If no election has been made, the joint assembly proceeds to vote, *viva voce*, for Senator, and if any

person receive a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, such person is declared duly elected.

3. If a choice is not made on this day, then the two houses must meet in joint assembly each succeeding day at the same hour, and must take at least one vote, as before, until a Senator is elected or the Legislature adjourns.

4. If a vacancy exists on the meeting of the Legislature of any State, said Legislature must proceed, on the second Tuesday after its meeting and organization, to fill such vacancy in the same manner as in the previous case; and if a vacancy occur when the session is in progress, the Legislature must proceed, as before, to elect on the second Tuesday after they have received notice of the vacancy.

323. Vacancies.—When a vacancy occurs in the recess of the Legislature of a State, owing to death or other cause, the Governor makes an appointment that continues until the next meeting of the Legislature, when the vacancy is filled in the usual manner. In all cases of vacancies the appointed or newly elected Senator only fills out the term of his predecessor.

324. Division of Senators.—The Senators are equally divided, or as nearly so as may be, into three classes with respect to the expiration of their terms, as follows:

Class 1, 1791, 1797.....1893, 1899

Class 2, 1793, 1799.....1895, 1901

Class 3, 1795, 1801..... 1897, 1903

The two Senators from a State are never put in the same class; and as the terms of the first Senators from a State now admitted to the Union expire with the terms

of the classes to which they are assigned, one or both of them may serve less than the full term of six years.

325. Electors of Representatives.—The persons who may vote for the most numerous branch of the State Legislature in any State, or the house of representatives, may also vote for members of the National House of Representatives. Usually, however, a State has only one rule of suffrage; that is, a person who may vote for members of the lower house of the State Legislature may vote also for all State and local officers. Practically, therefore, the rule is that State electors are National electors; or, in other words, the Constitution adopts for its purposes the whole body of the State electors, whoever they may be. In Wyoming, Colorado, and Utah women vote on the same terms and conditions as men. In Massachusetts, Connecticut, Maine, and Mississippi there is an educational qualification for the suffrage. But in most of the States males only, twenty-one years of age and upwards, having certain prescribed qualifications, are permitted to vote.

326. Apportionment of Representatives in the Constitution.—The Constitution provides that members of the House of Representatives shall be apportioned among the several States according to their respective numbers. The original rule for determining these numbers was that all free persons, including apprentices or persons bound to service for a term of years, but excluding Indians not taxed (or Indians living in tribal relations), and three-fifths of all other persons, should be counted. The "other persons" were the slaves. The abolition of slavery and the practical disappearance of apprenticeship have considerably simplified matters. The Fourteenth Amendment to the Constitution provides that Representatives shall be apportioned according to

population, counting the whole number of persons in a State, excluding Indians who are not taxed. This rule is applied to the people of the States regardless of age, sex, color, or condition. The Constitution further provides that the number of Representatives shall not exceed one for every 30,000 people, but that every State shall have one Representative regardless of population.

327. The Census.—The Constitution of 1787 fixed the number of members of the House of Representatives at 65, and apportioned them among the States as best it could, using the information in respect to population that was accessible. It also provided that an actual enumeration of the people should be made within three years of the first meeting of Congress, and that it should be repeated thereafter within every period of ten years. This enumeration was also called the census. In conformity with this provision, eleven decennial censuses of the United States have been taken, 1790, 1800, . . . 1890.

328. Method of Apportionments.—The decennial apportionment of members of the House is made by Congress, and that body has performed the duty in different ways. The apportionment of 1893 was made in the following manner: First, the House was conditionally made to consist of 356 members. Next, the population of the country, not counting the Territories, was divided by this number, which gave a ratio of 173,901. The population of every State was then divided by this ratio and the quotients added, giving 339. The numbers of Representatives indicated by these quotients were then assigned to the several States, and one Representative each in addition to the seventeen States having fractions larger than one-half the ratio, thus making the original number, 356. The admission of Utah has added one more.

When a new State comes into the Union, its Representative or Representatives are added to the number previously constituting the House.¹

329. Elections of Representatives.—For fifty years Congress allowed the States to elect their Representatives in their own way. The State Legislatures fixed the times and the places and regulated the manner of holding the elections; the elections were conducted without any regulation or control whatever being exercised by the National Government. Very naturally there were considerable differences of practice. In 1842 Congress first exercised its power of regulation. Three points must be noted:—

1. In 1842 Congress provided by law that, in every case where a State was entitled to more than one Representative, the members to which it was entitled should be elected by districts composed of contiguous territory equal in number to the number of Representatives to be chosen, no district electing more than one. It is, however, provided that when the number of Representatives to which a State is entitled has been increased at any decennial apportionment, and the State Legislature has failed to make the districting conform to the change,

¹ The Numbers of the House and the Ratios of Representation are set down in the following table, with the period:

Period.	Size of House.	Ratio.
1789-1793	65	
1793-1803	105	33,000
1803-1813	141	33,000
1813-1823	181	35,000
1823-1833	212	40,000
1833-1843	240	47,700
1843-1853	223	70,680
1853-1863	234	93,503
1863-1873	241	127,941
1873-1883	292	130,533
1883-1893	332	151,911
1893	357	173,901

the whole number shall be chosen by the State as a unit and not by districts. It is also provided that if the number apportioned to any State is increased, and the Legislature fails to district the State, the old districting shall stand, but that the additional member or members shall be elected by the State as a whole. Representatives elected on a general ticket, and not by district tickets, from States having more than one member, are called Representatives-at-large. Since 1872 Congress has prescribed that the districts in a State must, as nearly as practicable, contain an equal number of inhabitants. Congress has never constituted the Congressional districts, as they are called, but has always left that duty to the State Legislatures. As a rule the division of the States into districts, when once made, is allowed to stand for ten years, or until a new apportionment is made; but not unfrequently it is changed, or the State is re-districted, as the saying is, for the sake of obtaining some political advantage. The operation called "gerrymandering"¹ is only too well known in American history.

2. In 1871 Congress enacted that all votes for members of the House of Representatives should be by printed ballots, and that rule has continued until the present day.

3. In 1872 Congress prescribed that the elections should be held on the Tuesday next after the first Monday in November in every even-numbered year, 1874, 1876 . . . 1896, 1898, etc. Later legislation exempted from the

¹The *Century Dictionary* gives the following history of this word: "*Gerrymander*. In humorous imitation of *Salamander*, from a fancied resemblance of this animal to a map of one of the districts formed in the redistricting of Massachusetts by the Legislature in 1811, when Elbridge Gerry was Governor. The districting was intended (it was believed, at the instigation of Gerry), to secure unfairly the election of a majority of Democratic Senators. It is now known, however, that he was opposed to the measure."

operation of this rule such States as had prescribed a different day in their constitutions. Accordingly Oregon elects her Representatives the first Monday of June, Vermont hers the first Tuesday of September, and Maine hers the second Monday of the same month.

In nearly every case, if not indeed in every one, the State elects State officers at the same time that the elections of the National House of Representatives are held. Moreover, the elections of Representatives are conducted by the same officers that conduct the State elections. These officers count the votes and make the returns required by law. The Representative receives his certificate of election from the Governor of his State. If a vacancy occurs in any State, owing to any cause, the Governor issues a proclamation, called a writ of election, appointing a special election to fill the vacancy.

330. Compensation of Members of Congress.—Senators and Representatives receive a compensation from the Treasury of the United States. Congress fixes by law the pay of its own members, subject only to the President's veto.¹

¹The compensation at different times is exhibited in the following table:

1789-1815.....	\$ 6.00 a day.
1815-1817.....	1500.00 a year.
1817-1855.....	8.00 a day.
1855-1865.....	3000.00 a year.
1865-1871.....	5000.00 a year.
1871-1873.....	7500.00 a year.
1873-1896.....	5000.00 a year.

Save for a period of only two years, Senators and Representatives have always received a mileage or traveling allowance. At present this allowance is twenty cents a mile for the necessary distance traveled in going to and returning from the seat of government. The Vice-President, the President *pro tempore* of the Senate, and the Speaker of the House of Representatives now receive each a salary of \$8,000 a year.

331. Privileges of Members of Congress.—In all cases but treason, felony, and breach of the peace, Senators and Representatives are exempt from arrest during their attendance at the session of their respective houses and in going to and returning from the same. In other words, unless he is charged with one or more of the grave offenses just named, a member of either house cannot be arrested from the time he leaves his home to attend a session of Congress until he returns to it. Further, a Senator or Representative cannot be held responsible in any other place for any words that he may speak in any speech or debate in the house to which he belongs. This rule protects him against prosecution in the courts, even if his words are slanderous. Still more, speeches or debates, when published in the official report called “The Congressional Record,” are also privileged matter, and the speakers cannot be held accountable for libel. This freedom from arrest and this exemption from responsibility in respect to words spoken in the discharge of public duty, are not privileges accorded to the Senator and Representative in their own interest and for their own sake, but rather in the interest and for the sake of the people whom they represent. If they were liable to arrest for any trivial offense, or if they could be made to answer in a court of law for what they might say on the floor of Congress, the business of the country might be interfered with most seriously. The rights of legislative bodies must be rigidly maintained. The one rule given above is necessary to protect the freedom of representation, the other to protect the freedom of debate.

332. Prohibitions Placed Upon Members of Congress.—No Senator or Representative can, during the time for which he was elected, be appointed to any civil

office under the United States that is created, or the pay of which is increased, during such time. Appointments to many offices, and to all of the most important ones, are made by the President with the advice and consent of the Senate. Moreover, the President is always interested in the fate of measures that are pending before Congress, or are likely to be introduced into it. There is accordingly a certain probability that, if he were at liberty to do so, the President would enter into bargains with members of Congress, they giving him their votes and he rewarding them with offices created or rendered more lucrative for that very purpose. This would open up a great source of corruption. A Senator or Representative may, however, be appointed to any office that existed at the time of his election to Congress, provided the compensation has not been since increased. Still he cannot hold such office while a member of Congress. On the other hand, the Constitution expressly declares: "No person holding any office under the United States shall be a member of either house during his continuance in office."

333. Length of Congress.—The term Congress, is used in two senses. It is the name of the National Legislature as a single body, and it is also the name of so much of the continuous life of that body as falls within the full term of office of the Representative. We speak of Congress, and of a Congress. Thus there are a First, Second, and Fifty-fourth Congress, filling the periods 1789-1791, 1791-1793 1895-1897. The length of a Congress was fixed when the Convention of 1787 made the Representative's term two years. The time of its beginning and ending was due to an accident. The Old Congress provided in 1788 for setting the new Government in operation; it named

the first Wednesday of March, 1789, as the day when the two Houses of Congress should first assemble, which happened to be the fourth day of that month. Thus a point of beginning was fixed and, as the rule has never been changed, our Congresses continue to come and go on the fourth of March of every other year. The present procedure is as follows: Representatives are chosen in November of every even year, 1892, 1894, 1896, while their terms, and so the successive Congresses, begin on March 4 of every odd-numbered year, 1893, 1895, 1897.

While Representatives come and go together at intervals of two years, Senators come and go in thirds at the same intervals. The result is that while a House of Representatives lasts but two years, the Senate is a perpetual body.

334. Meeting of Congress.—Congress must assemble at least once every year, and such meeting is on the first Monday of December, unless by law it names another day. Hence every Congress holds two regular sessions. Furthermore, Congress may by law provide for special sessions, or it may hold adjourned sessions, or the President, if he thinks it necessary, may call the houses together in special session. As a matter of fact, all of these things have been done at different times. As the law now stands the first regular session of Congress begins on the first Monday of December following the beginning of the Representative's term, and it may continue until the beginning of the next regular session, and commonly does continue until midsummer. The second regular session begins the first Monday of December, but can continue only until March 4 of the next year, or until the expiration of the Representative's term. It is the custom to call these the long and the short sessions.

CHAPTER XXXI.

THE ORGANIZATION OF CONGRESS AND ITS METHOD OF DOING BUSINESS.

*The American Government. Sections 275; 293-294; 312-323;
331-340.*

335. Officers of the Senate.—The Vice-President of the United States is President of the Senate, but has no vote unless the Senators are equally divided. The Senate chooses its other officers, the Secretary, Chief Clerk, Executive Clerk, Sergeant-at-Arms, Door Keeper, and Chaplain. The duties of these officers are indicated by their titles. The Senators also choose one of their number President *pro tempore*, who presides in the absence of the Vice-President or when he has succeeded to the office of President. The Senate is a perpetual body, and is ordinarily fully organized, although not in actual session, at any given time.

336. Officers of the House of Representatives.—The House chooses one of its members Speaker, who presides over its proceedings. It also chooses persons who are not members to fill the other offices, the Clerk, Sergeant-at-Arms, Postmaster, and Chaplain. The Speaker has the right to vote on all questions, and must do so when his vote is needed to decide the question that is pending. He appoints all committees, designating their chairmen, and is himself chairman of the important Committee on Rules. His powers are very great, and he is sometimes said to exercise as much

influence over the course of the Government as the President himself. The Speaker's powers cease with the death of the House that elects him, but the Clerk holds over until the Speaker and Clerk of the next House are elected, on which occasions he presides. It is common to elect an ex-member of the House Clerk.

337. The Houses Judges of the Election of their Members.—The Houses are the exclusive judges of the elections, returns, and qualifications of their members; that is, if the question arises whether a member has been duly elected, or whether the returns have been legally made, or whether the member himself is qualified, the house to which he belongs decides it. In the House of Representatives contested elections, as they are called, are frequent. As stated before, the Governor of the State gives the Representative his certificate of election, which is duly forwarded to Washington addressed to the Clerk of the House next preceding the one in which the Representative claims a seat. The Clerk makes a roll of the names of those who hold regular certificates, and all such persons are admitted to take part in the organization of the House when it convenes. Still such certificate and admission settle nothing when a contestant appears to claim the seat. The House may then investigate the whole case from its very beginning, and confirm the right of the sitting member to the seat, or exclude him and admit the contestant, or declare the seat vacant altogether if it is found that there has been no legal election. In the last case, there must be a new election to fill the vacancy. The Governor of the State also certifies the election of the Senator. A Senator-elect appearing with regular credentials is admitted to be sworn and to enter upon his duties, but the Senate is still at liberty to inquire into his election and qualifi-

cations, and to exclude him from his seat if, in its judgment, the facts justify such action. In respect to qualifications, it may be said that persons claiming seats, or occupying them, have been pronounced disqualified because they were too young, or because they had not been naturalized a sufficient time, or because they have been guilty of some misconduct. From the decision of the Houses in such cases there is no appeal.

338. Quorums.—The Houses cannot do business without a quorum, which is a majority of all the members; but a smaller number may adjourn from day to day, and may compel the attendance of absent members. Whether a quorum is present in the House of Representatives or not, is determined by the roll-call or by the Speaker's count. If a quorum is not present, the House either adjourns or it proceeds, by the method known as the call of the House, to compel the attendance of absentees. In the latter case officers are sent out armed with writs to arrest members and bring them into the chamber. When a quorum is obtained, the call is dispensed with and business proceeds as before. In several recent Congresses a rule has prevailed allowing the names of members who were present but who refused to vote to be counted, if necessary, for the purpose of making a quorum.

339. Rules of Proceedings.—Each house makes its own rules for the transaction of business. The rules of the Senate continue in force until they are changed, but those of the House of Representatives are adopted at each successive Congress. Still there is little change even here from Congress to Congress. Owing to the greater size of the body, the rules of the House are much more complex than the rules of the Senate. The rules of both Houses, like the rules of all legislative

assemblies in English-speaking countries, rest ultimately upon what is known as Parliamentary Law, which is the general code of rules that has been progressively developed by the English Parliament to govern the transaction of its business. Still many changes and modifications of this law have been found necessary, to adapt it to the purposes of Congress, and especially of the House of Representatives.

340. Power to Punish Members.—The Houses may punish members for disorderly behavior, and by a vote of two-thirds may expel members. These necessary powers have been exercised not unfrequently. In 1842 the House of Representatives reprimanded J. R. Giddings, of Ohio, for introducing some resolutions in relation to slavery; while the Senate in 1797 expelled William Blount, of Tennessee, for violating the neutrality laws, and in 1863 Mr. Bright, of Indiana, for expressing sympathy with the Southern secessionists. From the decisions of the Houses in such cases there is no appeal.

341. Journals and Voting.—The Houses are required to keep a full history of their proceedings in records called journals, and to publish the same except such parts as in their judgment require secrecy. But as the House of Representatives always sits with open doors, the provision in respect to secrecy has no practical effect in that body. It is also null in the Senate except in executive sessions. These are secret sessions held for the transaction of special business sent to the Senate by the President, as the consideration of treaties and nominations. The yeas and nays must be called, and must be entered on the journal, when such demand is made by one-fifth of the members present. The object of these rules is to secure full publicity in regard to what is done in Congress. On the call of the roll, which is the only

form of voting known in the Senate, members are entered as voting yea or nay, as absent or not voting. In the House votes are taken in three other ways: by the *viva voce* method, the members answering aye or no when the two sides of the question are put; by the members standing until the presiding officer counts them; by the members passing between two men called tellers, who count them and report the numbers of those voting on the one side and on the other, to the Chair.

342. Mode of Legislating.—A bill is a written or printed paper that its author proposes shall be enacted into a law. Every bill that becomes a law of the United States must first pass both Houses of Congress by majority votes of quorums of their members. Still more, this must be done according to the manner prescribed by the rules, which on this subject are very minute. For example, no bill or joint resolution can pass either house until it has been read three times, and once at least in full in the open house. The presiding officers of the two Houses certify the passage of bills by their signatures. When a bill has thus passed Congress it is sent to the President for his action, who may do any one of three things with it.

343. Action of the President.—1. The President may approve the bill, in which case he signs it and it becomes a law.

2. He may disapprove the bill, in which case he sends it back to the house that first passed it, or in which it originated, with his objections stated in a written message. In such case he is said to veto it. This house now enters the message in full on its journal and proceeds to reconsider the bill. If two-thirds of the members, on reconsideration, vote to pass the bill, it is sent to the other house, which also enters the message

on its journal and proceeds to reconsider. If two-thirds of this house also vote for the bill, it becomes a law notwithstanding the President's objections. The bill is now said to pass over the President's veto. In voting on vetoed bills the Houses must vote by yeas and nays, and the names of those voting are entered on the journal. If the house to which the bill is returned fails to give it a two-thirds vote, the matter goes no farther; if the second one fails to give it such vote, the failure is also fatal. In either case the President's veto is said to be sustained.

3. The President may keep the bill in his possession, refusing either to approve or disapprove it. In this case, it also becomes a law, when ten days, counting from the time that the bill was sent to him, have expired, not including Sundays. However, to this rule there is one important exception. If ten days do not intervene between the time that the President receives the bill and the adjournment of Congress, not counting Sundays, it does not become a law. Accordingly the failure of the President to sign or to return a bill passed within ten days of the adjournment defeats it as effectually as a veto that is sustained by Congress could defeat it. The President sometimes takes this last course, in which case he is said to "pocket" a bill or to give it a "pocket" veto.

344. Orders, Resolutions, and Vetoes. — Every order, resolution, or veto to which the concurrence of both Houses of Congress is necessary, save on questions of adjournment, must be sent to the President for his approval. This rule prevents Congress enacting measures to which the President may be opposed by calling them orders, resolutions, or votes and not bills. Still the resolutions of a single house, or joint resolutions that merely declare opinions and do not enact legislation, are not subject to this rule. Nor is it necessary for the Pres-

ident to approve resolutions proposing amendments to the Constitution of the United States.

345. The Committee System.—To a great extent legislation is carried on in both Houses by means of committees. These are of two kinds. Standing committees are appointed on certain subjects, as commerce, the post-office, and foreign affairs, for a Congress. Special committees are appointed for special purposes. The House of Representatives has more than fifty standing committees; the Senate not quite so many. All House committees are appointed by the Speaker. Senate committees are elected by the Senators on caucus nominations. The standing committees of the House consist of from three to seventeen members; of the Senate from two to thirteen. The committees draw up bills, resolutions, and reports, bringing them forward in their respective houses. To them also bills and resolutions introduced by single members are almost always referred for investigation and report before they are acted upon in the house.

346. Adjournments.—The common mode of adjournment is for the two Houses to pass a joint resolution to that effect, fixing the time. The President may, in case of a disagreement between the Houses respecting the time of adjournment, adjourn them to such time as he thinks proper; but no President has ever had occasion to do so. Neither House, during the session of Congress, can, without the consent of the other, adjourn for more than three days, or to any other place than the one in which Congress shall be sitting at the time. It is therefore practically impossible for the two Houses to sit in different places, as one in Washington and the other in Baltimore. As is elsewhere explained, the Senate may sit alone to transact executive business, if it has been convened for that purpose.

CHAPTER XXXII.

THE IMPEACHMENT OF CIVIL OFFICERS.

The American Government. Sections 302-311; 484.

347. Impeachment Defined.—In the legal sense, an impeachment is a solemn declaration by the impeaching body that the person impeached is guilty of some serious misconduct that affects the public weal. In the United States, the President, Vice-President, and all other civil officers are subject to impeachment for treason, bribery, or other high crimes and misdemeanors. In England, military officers and private persons may be impeached as well as civil officers. The other crimes and misdemeanors mentioned in the Constitution are not necessarily defined or prohibited by the general laws. In fact, few of them are so treated. Impeachment is rather a mode of punishing offenses that are unusual, and that, by their very nature, cannot be dealt with in the general laws. Thus Judge Pickering was impeached in 1803 for drunkenness and profanity on the bench, and Judge Chase the next year for inserting criticisms upon President Jefferson's administration in his charge to a grand jury, while President Johnson was impeached in 1867, among other things, for speaking disparagingly of Congress. But none of these acts were prohibited by the laws. Senators and Representatives are exempt from impeachment.

348. The Power of the House.—The House of Representatives has the sole power of impeachment, as

the House of Commons has in England. The following are the principal steps to be taken in such case. The House adopts a resolution declaring that Mr. — be impeached. Next it sends a committee to the Senate to inform that body of what it has done, and that it will in due time exhibit articles of impeachment against him and make good the same. The committee also demands that the Senate shall take the necessary steps to bring the accused to trial. Then the House adopts formal articles of impeachment, defining the crimes and misdemeanors charged, and appoints a committee of five managers to prosecute the case in its name, and in the name of the good people of the United States. These articles of impeachment are similar to the counts of an indictment found by a grand jury in a court of law.

349. The Power of the Senate.—The action of the House of Representatives settles nothing as to the guilt or innocence of the person accused. The Constitution places the power to try impeachments exclusively in the Senate, as in England it is placed exclusively in the House of Lords. So when the House has taken the first step described in the last paragraph, the Senate takes the action that is demanded. It fixes the time of trial, gives the accused an opportunity to file a formal answer to the charges that have been made against him, and cites him to appear and make final answer at the time that has been fixed upon for the trial. The Senators sit as a court, and when acting in such a capacity they must take a special oath or affirmation. When the President is tried, the Chief Justice presides. No person shall be convicted unless two-thirds of the Senators present vote that he is guilty of one or more of the offenses charged. As the Vice-President would have a personal interest in the issue should the President be put on trial, owing to

the fact that the Vice-President succeeds to the presidency in case of the removal of the President, it would manifestly be a gross impropriety for him to preside in such case. He would be in a position to influence the verdict.

350. The Trial.—The Senate sits as a court, as before explained. The ordinary presiding officer occupies the chair on the trial, save in the one excepted case of the President. At first the House of Representatives attends as a body, but afterwards only the five managers are expected to attend. The accused may attend in person and speak for himself; he may attend in person, but entrust the management of his cause to his counsel; he may absent himself altogether, and either leave his cause to his counsel or make no defense whatever. Witnesses may be brought forward to establish facts, and all other kinds of legal evidence may be introduced. The managers and the counsel of the accused carry on the case according to the methods established in legal tribunals. When the case and the defense have been presented, the Senators discuss the subject in its various bearings, and then vote yea or nay upon the various articles that have been preferred. The trial is conducted with open doors, but the special deliberations of the Senate are carried on behind closed doors. A copy of the judgment, duly certified, is deposited in the office of the Secretary of State.

351. Punishment in Case of Conviction.—The Constitution declares that judgment in cases of conviction shall not go further than to work the removal of the officer convicted from his office, and to render him disqualified to hold and enjoy any office of honor, trust, or profit under the United States. It declares also that all persons who are impeached shall be removed from office

on conviction by the Senate. Here the subject is left. It is therefore for the Senate to say whether, in a case of conviction, the officer convicted shall be declared disqualified to hold office or not, in the future, and this is as far as the discretion of the Senate extends. Whatever the punishment may be, it is final and perpetual. The President is expressly denied the power to grant reprieves and pardons in impeachment cases. This is because such power, once lodged in his hands, would be peculiarly liable to abuse. But this is not all. If the crimes or misdemeanors of which an officer has been convicted are contrary to the general laws, he is still liable to be indicted, tried, judged, and punished by a court of law just as though he had not been impeached.

352. Impeachment Cases.—There have been but seven such cases in the whole history of the country. William Blount, Senator from Tennessee, 1797–98; John Pickering, District Judge for New Hampshire, 1803–1804; Samuel Chase, Justice of the Supreme Court, 1804–1805; James Peck, District Judge for Missouri, 1829–1830; W. W. Humphreys, District Judge for Tennessee, 1862; Andrew Johnson, President of the United States, 1867; W. W. Belknap, Secretary of War, 1876. Only Pickering and Humphreys were found guilty.

CHAPTER XXXIII.

THE GENERAL POWERS OF CONGRESS.

The American Government. Sections 341-418.

In a free country the legislative branch of the government tends to become the most powerful of all the branches, overtopping both the executive and the judiciary. This is true in the United States. The powers of Congress are divisible into general and special powers, of which the first are by far the more important. The general powers are described in section 8, Article 1, of the Constitution, and occupy eighteen clauses. They will now be described.

353. Taxation.—Revenue is the life blood of government. The first Government of the United States failed miserably, and largely because it could not command money sufficient for its purposes. When the present Government was constituted, good care was taken to guard this point. It was clothed with the most ample revenue powers. Congress may, without limit, lay and collect taxes to pay the debts and provide for the common defense and general welfare of the United States. These taxes are of two kinds, direct and indirect. Direct taxes are taxes on land and incomes and poll or capita-tion taxes. Here the taxes are paid by the person owning the land or enjoying the income. Taxes on imported goods, called custom duties and sometimes imposts, and taxes on liquors paid at the distillery or brewery, and on cigars and tobacco paid at the factory, are indirect taxes. Here the tax is added to the price of the article

by the person who pays it in the first instance, and it is ultimately paid by the consumer. Taxes of the second class are collectively known as internal revenue to distinguish them from customs or duties, which might be called external revenue. The term excise, used in the Constitution, but not in the laws, applies to this great group of taxes. They are collected through the Internal Revenue Office in the Treasury Department. Direct taxes have been levied only five times by the National Government. Customs and internal revenue have always been its great resources.

354. Special Rules.—In levying taxes Congress must conform to several rules that the Constitution prescribes. All taxes must be uniform throughout the United States. In legislating on commerce and revenue, Congress must take care not to show a preference for the ports of one State over those of another State. Direct taxes, like Representatives, must be apportioned among the States according to population. And finally, no tax or duty can be laid on any article of commerce exported from any State.

355. Borrowing Money—Bonds.—Public expenditures cannot always be met at the time by the public revenues. It becomes necessary in emergencies for governments to borrow money and contract debts. Congress borrows money on the credit of the United States. The principal way in which it exercises this power is to sell bonds. These bonds are the promises or notes of the Government, agreeing to pay specified amounts at specified times at specified rates of interest. During the Civil War more than five billion dollars of such bonds were sold, many of them to replace others that were cancelled. At the present time a large amount of Government bonds is outstanding.

356. Treasury Notes.—Congress also authorizes the issue of Treasury notes, called by the Constitution “bills of credit.” They are paid out by the Treasury to meet the expenses of the Government, and while they continue to circulate they constitute a loan that the people who hold them have made to the Government. Such notes were occasionally issued before the Civil War, and since that event they have played a very important part in the history of the National finances. In 1862 Congress authorized the issuance of Treasury notes that should be a legal tender in the payment of all debts, public and private, except duties on imports and interest on the National debt. These notes were not payable on demand, or at any particular time; they did not bear interest, and were not for the time redeemable in gold or silver, which, since 1789, had been the only legal-tender currency of the country. In 1879 the Treasury, in obedience to a law enacted several years before, began to redeem these notes in gold on presentation, and it has continued to do so until the present time. Still they have never been retired from circulation, or been cancelled on redemption, but have been paid out by the Treasury the same as other money belonging to the government. They are popularly called “greenbacks.”

357. Commerce.—Congress has power to regulate commerce with foreign nations, among the States, and with the Indian tribes. The exclusive control of commerce by the States, under the Confederation, was a principal cause of the hopeless weakness of that government. (See Chap. XX.) It may indeed be said that the commercial necessities of the country, more than anything else, compelled the formation of the new Government in 1789. Tariff laws, or laws imposing duties on imported goods, are regulations of commerce, and so are laws

imposing tonnage duties, or duties on the carrying capacity of ships, and laws prescribing the manner in which the foreign trade of the country shall be carried on. The construction or improvement of harbors, the building of lighthouses, surveys of the coasts of the country, and laws in relation to emigration all come under the same head. In order the better to regulate commerce among the States, Congress created the Interstate Commerce Commission, and it has passed a law in relation to the subject of trusts. The Constitution lays down the rule relating to Interstate commerce that vessels bound to or from one State to another shall not be required to enter or clear, or to pay duties.

358. Naturalization.—All persons born or naturalized in the United States and subject to their jurisdiction are citizens of the United States, and of the State in which they reside. Citizenship, or the state of being a citizen, is membership in the state, or body politic. Congress has provided that a foreigner, unless he belongs to the Mongolian race, may become a citizen, or be naturalized, as the saying is, on his compliance with certain terms and conditions. A residence of five years is necessary. Two years before his admission to citizenship the alien must declare on oath, before a court of record, his intention to become a citizen. On the expiration of the two years, he must prove to this court, or some other one having the same jurisdiction, that he has resided in the United States at least five years, and in the State or Territory at least one year; that he is a man of good moral character; that he is attached to the Constitution, and that he is well disposed to the United States. He must also swear to support the Constitution, must renounce all allegiance to any foreign state or prince,

and lay aside any title of nobility that he has held. He then receives a certificate stating that he is a citizen of the United States, and he becomes entitled to all the rights of a native-born citizen, except that he can never be President or Vice-President. His wife and his children under twenty-one years of age also become citizens. All laws in relation to naturalization must be uniform. The States may confer political rights upon foreigners, as the right to own land and vote within the State, but they cannot confer citizenship.

359. Bankruptcies.—A person who is insolvent, or unable to pay his debts, is termed a bankrupt; and a law that divides the property of such person among his creditors and discharges him from legal obligation to make further payment, is termed a bankrupt law. Congress has power to pass uniform laws in relation to this subject. It has passed three such laws, one in 1800, one in 1840, and one in 1867. The last one was repealed in 1878. The States sometimes pass insolvent laws, having somewhat the same effect as bankrupt laws, but they are always subject to the National bankrupt law when there is one in force.

360. Coinage of the United States.—Congress coins money and regulates its value and the value of foreign coin circulating in the country. This power, taken in connection with other powers, enables Congress, if it chooses, to regulate the whole subject of money. At the present time the National mints are open to all persons for the coinage of gold. Depositors of standard gold are charged merely the value of the copper used in alloying the coin. The gold coins of the Government are the double-eagle, eagle, half-eagle, quarter-eagle, three-dollar piece, and one-dollar piece. These coins are legal tender in payment of all debts, public and

private.¹ Silver coins of small denomination only are now struck at the mints, and exclusively on account of the Government. These coins are the half-dollar, quarter-dollar, and dime, which are legal tender for debts not exceeding five dollars. The Government also strikes coins of base metal for small change; the five-cent piece and the one-cent piece, which are legal tender in sums not exceeding twenty-five cents. At different times still other coins have been struck, and some of them are still in circulation. Mention may be made of the dollar, the trade dollar, the two-cent piece, and the half-dime.

361. The Silver Dollar.—The silver dollar was the original money-unit of the United States. It was coined, though never in very large quantities, from the founding of the mint in 1792 until 1873, when it was dropped from the list of legal coins. This fact is expressed in the phrase, "silver was demonetized." The minor silver coins, however, were produced as before. Congress also authorized for several years a new coin, called the trade dollar. In 1878 Congress restored the old silver dollar to the list of authorized coins, and instructed the Secretary of the Treasury to purchase silver bullion for the Government and to coin it into dollars, not less than \$2,000,000, nor more than \$4,000,000, a month. These dollars were also made a legal tender. In 1890 Congress passed a further act instructing the Secretary to purchase 4,500,000 ounces of silver a month on Government account, as before, and to coin it after July, 1891, at his discretion. In 1893 Congress repealed the purchase clause of the previous act, and there has

¹ Legal-tender money is money with which a debtor can legally pay a debt; that is, if he offers or tenders this money to his creditor, and his creditor refuses to take it, he is not obliged to make other payment.

been no later legislation on the subject. At no time since 1873 have private persons been permitted to deposit silver at the mints for coinage.

362. Fineness and Weight of Coins and Ratio of Metals.—The gold and silver coins of the United States are nine-tenths fine; that is, nine parts of the coins are pure metal and one part is alloy. This is called standard metal. Since 1834, the gold dollar has contained 23.2 grs. of pure metal and 25.8 grs. of standard metal. Since 1792 the silver dollar has contained $371\frac{1}{4}$ grs. of pure metal, and since 1837, $412\frac{1}{2}$ grs. of standard metal. It is common to call the last named coin the $412\frac{1}{2}$ gr. dollar. The amount of pure silver in a dollar's worth of the minor coins is 345.6 grs., and of standard silver 384 grs. The ratio of the gold dollar to the silver dollar is popularly said to be 1 to 16. Exactly it is 1 to 15.988. This has been the legal ratio since 1834. When it was established Congress assumed that 16 grs. of silver (nearly so) were equal to one grain of gold in value.

363. Gold and Silver Certificates.—To dispense with the necessity of handling so much metallic money, Congress has provided for the issuance of gold and silver certificates. One of these certificates is simply a statement that in consequence of the deposit of — dollars of gold or silver, as the case may be, in the Treasury, the Government will pay the holder of the certificate the corresponding amount. These certificates pass as money, but are not a legal tender.

364. Counterfeiting.—Congress provides by law for punishing counterfeiting the coin and securities of the United States, its notes, bonds, etc. The term counterfeiting includes (1) manufacturing or forging coins or paper securities; (2) putting forged coins or securities in circulation; and (3) having them in possession for

that purpose. A person guilty of any one of these three offenses is punishable on conviction by a fine of not more than \$5,000 and by imprisonment at hard labor for not more than ten years. Counterfeiting the notes of the National banks, letters patent, money orders, postal cards, stamped envelopes, etc., is punishable by severe penalties; as is also counterfeiting the coins and securities of foreign governments.

365. The Independent Treasury.—Previous to 1846, save for a short period, the Government had no treasury of its own, but kept its money in the banks and checked it out as it had occasion. In the year named a treasury was established in the Treasury Building at Washington, provided with rooms, vaults, and safes, and a Treasurer was appointed. Subtreasuries were also established in the principal cities of the country and put in charge of officers known as Subtreasurers. Subtreasuries are now to be found in New York, Boston, Charleston, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and San Francisco.

366. The National Banks.—In 1863 and 1864 Congress provided for the creation of the present system of National banks, which have played so important a part in the business of the country. These banks are directly managed by boards of directors chosen by their stockholders, but they are supervised by the Comptroller of the Treasury, whose office is established in the Treasury Department. Their notes or bills, which are fully secured by National bonds belonging to the banks that are deposited in the office of the Comptroller at Washington, constitute a National currency.

367. Weights and Measures.—Congress has power to fix the standard of weights and measures, but has never fully exercised the power. In general the standards in

use are the same as those in use in England. The English brass Troy pound is the legal Troy pound at the mints, while the Imperial avoirdupois pound and the wine gallon rest upon usage. Congress has authorized the use of the metric system of weights and measures, but has not made it compulsory.

368. The Postal Service.—Congress has created the vast postal system of the country, the cost of which in the year 1894 was more than \$84,000,000. The mails are carried by contractors. Postmasters paid \$1,000 or more a year are appointed by the President for a term of four years; all others by the Postmaster-General at his pleasure. A great majority of the postmasters do not receive regular salaries, but a percentage on the income of their offices. Towns having gross post-office receipts of \$10,000 or more have free mail delivery by letter-carriers. In towns of 4,000 inhabitants or more letters bearing a special 10-cent stamp are delivered by a special carrier immediately on their receipt. Letters may also be registered to secure their greater safety in delivery on payment of a 10-cent fee. Money orders are also sold by certain post-offices called money-order offices, which to a limited extent take the place of money in the transaction of business.

369. Rates of Postage.—There are four classes of domestic mail matter bearing different rates of postage. All postage must be pre-paid in the form of stamps.

1. Letters, postal cards, and other written matter, and all packages that are closed to inspection. Save on postal cards and drop letters mailed at non-delivery offices, the rate is two cents an ounce or fraction of an ounce.

2. Periodicals, magazines, etc. The rate on matter of this class when sent from a registered publishing

office, or a news agency, is one cent a pound; when sent otherwise, it is one cent for every four ounces.

3. Books, authors' copy accompanying proof-sheets, etc., are charged one cent for two ounces or fraction of the same.

4. Merchandise limited to 4-pound packages is charged one cent an ounce.

370. Copyrights and Patent Rights.—For promoting science and the arts, Congress provides that authors may copyright their works and inventors patent their inventions for limited times. The author of a book, chart, engraving, etc., by means of a copyright, enjoys the sole liberty of printing, publishing, and selling the same for twenty-eight years, and on the expiration of this time he, if living, or his wife or his children if he be dead, may have the right continued fourteen years longer. An inventor also, by means of letters patent, enjoys the exclusive right to manufacture and sell his invention for seventeen years, and on the expiration of that period the Commissioner of Patents may extend the right, if he thinks the invention sufficiently meritorious. Copyrights are obtained from the head of the Library of Congress, patent rights from the head of the Patent Office, both at Washington. The cost of a copyright is one dollar and two copies of the book or other work. The cost of a patent right is \$35.00. Every article that is copyrighted or patented must be appropriately marked.

371. Piracies and Felonies.—Congress defines the punishment of piracies and felonies on the high seas, and offenses against the Law of Nations. In a general sense piracy is robbery or forcible depredation of property on the seas, but Congress has by law declared some other acts, as engaging in the slave trade, to be piracy.

Felonies, strictly speaking, are crimes punishable by death. The Law of Nations is a body of rules and regulations that civilized nations observe in their intercourse one with another. The high seas are the main sea or ocean below low-water mark. The line limiting it is arbitrarily fixed at one marine league from the shore.

372. Powers of Congress in Relation to War.—Congress has the power to declare war, which in monarchical countries is lodged in the Crown. It raises and supports armies. It provides a navy. It makes rules for the government of the army and navy. It provides for calling out the militia of the States to execute the laws of the Union, to suppress insurrection, and repel invasion. It provides for organizing, arming, and disciplining the militia, and for the government of such of them as may be called into the service of the United States; but the States have authority to appoint the officers and to train the militia according to the discipline that Congress has prescribed. These powers are very far-reaching. Acting under the laws of Congress, President Lincoln, in the course of the Civil War, called into the service of the Union fully 3,000,000 men. A navy counting hundreds of vessels was also built. At present the army consists of 25,000 officers and enlisted men. The navy consists of 38 vessels in commission for sea service. At present the highest title in is the army Major-General, the highest in the navy Rear-Admiral. The soldiers of the United States are divided into the regular troops and the militia. The former are in constant service; the latter are the citizen soldiery enrolled and organized for discipline and called into service only in emergencies. In the fullest sense of the word, the militia are the able-bodied male citizens of the States

between the ages of eighteen and forty-five. The President cannot call them into active service for a longer period than nine months in any one year. In service, they are paid the same as the regular troops.

373. The Federal District.—Previous to 1789 the United States had no fixed seat of government, and Congress sat at several different places. The resulting evils led the Convention of 1787 to authorize Congress to exercise an exclusive legislation over a district, not more than ten miles square, that particular States might cede and Congress might accept for a capital. The cession of Maryland and the acceptance of Congress made the District of Columbia the Federal District, and an act of Congress made Washington the Capital of the Union. The various branches of the Government were established there in 1800. The District is now governed by a board of three commissioners, two appointed by the President and Senate, and one an engineer of the army who is detailed by the President for that purpose. Congress pays one-half the cost of government, the people of the District the other half. Congress also has jurisdiction over places within the States that have been purchased for forts, arsenals, magazines, dock-yards, and other needful public buildings.

374. Necessary Laws.—It must be borne in mind that the government of the United States is a government of delegated powers. Still these powers are not all expressly delegated. There are powers delegated by implication, as well as powers delegated in words. Congress is expressly authorized to make all laws that are necessary for carrying into effect the powers that have been described above, and all other powers that the Constitution vests in the Government of the United States, or any department or officer of that Government.

Congress improves harbors, erects lighthouses, builds post-offices and custom houses, and does a thousand other things that are not particularly named in the Constitution, because in its judgment they are necessary to the execution of powers that are particularly named. The power to establish post-roads and post-offices, for example, or to create courts, involves the power to build buildings suitable for these purposes. This is known as the doctrine of implied powers.

Looking over the general powers of legislation that are vested in Congress, described above, we see how necessary they are to a strong and efficient government. They are the master power, the driving force, of our whole National system. If these eighteen clauses were cut out of the Constitution, that system would be like a steamship without an engine.

CHAPTER XXXIV.

ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENT.

The American Government. Sections 446-474.

It is the business of the Executive Department of the Government to enforce the laws that the Legislative Department makes. Government in a free country begins with law-making, but it ends with law-enforcing. We are now to examine in two or three chapters the National Executive.

375. The Presidency.—Congress consists of two Houses, and each house consists of many members, but the Executive office is single, entrusted to one person. The Constitution vests the executive power in the President of the United States. This difference is due to the nature of the things to be done. Legislation demands varied knowledge, comparison of views, and deliberation. Administration calls for vigor, unity of purpose, and singleness of responsibility. The burden of National administration is imposed upon the shoulders of one man.

376. Presidential Electors.—The President and the Vice-President are elected by Electors appointed for that purpose. Each State appoints, in such manner as its Legislature may determine, a number of Electors equal to the whole number of its Senators and Representatives in Congress. Early in the history of the Government, different modes of appointing Electors were followed. Since the Civil War, with a single exception, there has been only one mode. All the States now proceed in the same way. This is to submit the question to

the people of the States at a popular election. With this point clearly in mind, we shall go forward to describe the whole series of steps that are taken in electing the President and the Vice-President of the United States.

377. Presidential Nominations.—Government in the United States, as in other free countries, is carried on by means of political parties. These party organizations desire to elect the President and control the Government. They hold National conventions, generally in the period June–August of the year before a President is to take his seat, to nominate candidates for President and Vice-President, and to adopt a statement of party doctrines or principles called a platform. These conventions are constituted under fixed rules, and are convoked by National committees. The Republican and Democratic conventions consist each of four delegates-at-large from every State, and twice as many district delegates as the State has members in the House of Representatives. As a rule the delegates-at-large are appointed by State party conventions, and the district delegates by district conventions. In the Republican convention a majority vote suffices to nominate candidates; in the Democratic convention the rule is two-thirds.

378. Electoral Tickets.—The next step is to make up the State Electoral tickets. First, State conventions name two Electors for the State called Electors-at-large, or Senatorial Electors. The conventions that name the delegates-at-large to the National conventions may, and often do, name also the candidates for Electors-at-large. Next district Electors are put in nomination, one from a Congressional district, generally by district conventions. The names of the candidates put in nomination by a given party brought together constitute the State

party ticket. No Senator or Representative, or other person holding an office of trust or profit under the United States, can be appointed an Elector.

The two steps that have been described belong wholly to the field of voluntary political action. The Constitution and the laws have nothing whatever to do with them.

379. Choice of Electors.—Congress fixes the day upon which the Electors are chosen. It is the same in all States, Tuesday following the first Monday of November, the day on which members of the House of Representatives are generally elected. Persons who may vote for State officers and for Representatives may also vote for Electors. State officers conduct the election, and the Governor gives the successful candidates their certificates of election. The appointment of the Electors is popularly called the Presidential election. It is so in fact but not in law. In point of law the people do not elect the President and the Vice President, but only Electors who elect them. In point of fact, as we shall soon see, they do both. All that the National authority has done up to this point is to fix the time of the appointment of Electors. Hereafter that authority directs every step in the process.

380. Meeting of the Electors.—On the second Monday of January, following their appointment, the Electors meet at their respective State capitals to vote for President and Vice-President. They name in their ballots the person for whom they vote as President, and in distinct ballots the person for whom they vote as Vice-President. No Elector can vote for persons for both offices from the same State that he himself resides in: one at least of the two candidates must belong to another State. The voting over, the Electors make distinct lists

of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they sign, certify, and seal. Three copies of these lists are made. Two of them they send to Washington addressed to the President of the Senate, one by mail and one by a special messenger. The other copy they deliver to the Judge of the United States District Court for the district in which they meet and vote. Congress by law names the day on which the Electors give their votes, and it must be uniform throughout the Union. The casting of their ballots by the Electors is the formal but not the real Presidential election.

381. Counting the Electoral Votes.—On the second Wednesday of February, the day named by Congress, the Senate and the House of Representatives meet in the hall of the House to witness the counting of the Electoral votes. The President of the Senate presides, the Speaker of the House sitting by his side. He opens the certificates of votes and hands them to tellers appointed by the Houses, who read and count the votes. The President of the Senate declares the result. The person having the greatest number of votes cast for President, if a majority of all, is declared President; the person having the greatest number of votes for Vice-President, if a majority of all, is declared Vice-President.

382. Election of the President by the House.—If no person has received for President the votes of a majority of all the Electors appointed, the House of Representatives must immediately choose the President from the three candidates who have had the most votes for that office. This election is by ballot. The votes are taken by States, the Representatives from a State having one vote. Nevada balances New York, Delaware Pennsylvania. A quorum to conduct the election consists of a member

or members from two-thirds of the States, and a majority of all the States is necessary to a choice. Twice has the House of Representatives chosen the President, Thomas Jefferson in 1801 and John Quincy Adams in 1825. Both of these elections were attended by great excitement.

If the House fails to choose a President, when the choice devolves upon that body, by March 4 following, then the Vice-President acts as in the case of death, removal, or resignation of the President.

383. Election of the Vice-President by the Senate.—If no person voted for as Vice-President has a majority of all the Electors appointed, then the Senate shall choose to that office one of the two candidates standing highest on the list of candidates for the Vice-Presidency. A quorum for this purpose consists of two-thirds of the whole number of Senators, and a majority of all the Senators is necessary to a choice.

384. Miscellaneous Provisions.—The Electors appointed from a State are often called a college; the Electors from all the States the Electoral colleges. Most of the States have empowered their colleges to fill vacancies that may occur in their number. In 1887 Congress passed an act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon. This law gives the States jurisdiction over disputed appointments of Electors. It also prescribes the method of proceeding when plural returns are made from any State and in cases where objections are made to a single return.¹

¹ The method of electing President and Vice-President outlined above, is that prescribed by the Constitution as originally framed, together with the Twelfth Amendment. For the change introduced by this Amendment, see the Amendment in connection with Article II, section 1, clause 3, of the Constitution at first framed.

385. The Electoral System.—When the framers of the Constitution devised the method of election by means of Electoral colleges, they assumed that the Electors would be picked bodies of men, who would vote for the best men for President and Vice-President, regardless of popular feeling and private interest. It may be said that in the case of Washington the plan worked as they expected, but since his second administration it has never done so. No other part of the Constitution has proved so disappointing as the method of electing the President. In 1804 the Constitution was amended to correct evils that had declared themselves in the election of 1800; but the Twelfth Amendment, while accomplishing its immediate purpose, did not prevent the whole plan becoming a miserable failure. The men of 1787 did not foresee the part that politics and political parties would play in American affairs. As we have seen, the President and Vice-President are really named by one of the two great political conventions. The Electors are not chosen to exercise their own best judgment, but to cast their ballots for the party candidates. When once elected, the Electors are not legally bound to vote for these candidates, for the Constitution and laws make no mention of parties and conventions; but they are bound as party men and as men of honor, for they have consented to be elected on this understanding. As the system works, they have no free will whatever, and practically the Electoral colleges are pieces of useless political machinery.

CHAPTER XXXV.

THE PRESIDENT'S QUALIFICATIONS, TERM, AND REMOVAL.

The American Government. Sections 450; 476-482.

386. Qualifications.—The President must be a native-born citizen of the United States. He must have attained the age of thirty-five years, and have been a resident of the country fourteen years at the time of his election. The Vice-President must have the same qualifications as the President.

387. Length of Term.—The term of office of both the President and the Vice-President is four years, and the two officers are eligible to successive re-elections. It has often been contended that it would be better to give the President a term of six or seven years, and then make him ineligible to a second election.

388. The President's Salary.—This is fixed by Congress. From 1789 to 1873 it was \$25,000 a year; since 1873 it has been \$50,000. Congress also provides the President the furnished house known as the White House for an official residence. The President's salary can neither be increased nor diminished after he has entered on the duties of his office. The first of these two prohibitions makes it impossible for him to enter into bargains with members of Congress, whereby they shall receive something that they deem desirable, at the same time that his compensation is increased. The second prohibition makes it impossible for Congress to reduce his compensation, and so to make the President its dependent or creature. All changes in the salary must therefore be prospective. Still further, the President cannot, during

his continuance in office, receive any other public emolument than his salary, such as a gift or present from the United States or from any State. The salary of the Vice-President is \$8,000.

389. The President's Oath. — Before entering on the duties of his office, the President must take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." This oath is in general a definition of the President's duties. He is exclusively an executive officer. The occasion on which the President takes this oath is popularly called his inauguration, and is marked by a good deal of parade and ceremony. The custom now is to conduct the inauguration on the East Front of the Capitol at Washington. The Chief Justice administers the oath, and the President delivers an address called his inaugural address. With the exception of the oath, none of these ceremonies are required by the Constitution or the laws, and they might be dispensed with. It is also customary for the Vice-President to take his oath in the Senate Chamber and to deliver a short speech to the Senators.

390. The Vice-President. — The only reason for creating the office of Vice-President was to have a proper officer at hand who could succeed to the Presidency in the case of a vacancy. The Vice-President becomes President when the President is removed, dies, resigns, or is unable to discharge the powers and duties of his office. The President can be removed only by conviction on impeachment. If he resigns he must file his resignation in writing in the office of the Secretary of State. Just what inability to discharge the duties of his office is, has never

been settled. President Garfield performed but one executive act from July 2, 1891, to his death, which occurred September 19 following. It was much discussed at the time whether a case of inability had arisen, but with no practical results. Four Vice-Presidents have become Presidents by succeeding to the office. When the Vice-President becomes President, he succeeds to all the powers, dignities, responsibilities, and duties of the office for the unexpired portion of the term and ceases to be Vice-President. The Constitution provides that the Vice-President shall be the President of the Senate, but this is merely for the purpose of giving dignity and consequence to an officer who, for the most part, would otherwise have nothing to do.

391. The Presidential Succession. — Who shall succeed to the Chief Executive office in case both the President and Vice-President die, resign, are removed, or are unable to perform the duties of the office? The Constitution says that Congress shall by law provide for such a case, declaring what officer shall act as President until the disability be removed or a President be elected. The present law, which dates from 1886, declares that first the Secretary of State shall succeed, then the Secretary of the Treasury in case of his death, removal, etc.; afterwards the Secretary of War, the Attorney-General, the Postmaster-General, the Secretary of the Navy, and the Secretary of the Interior in this order. No one of these officers, however, can succeed unless he has been confirmed by the Senate and has all the qualifications that are required of the President. If one of them succeeds he fills the unexpired portion of the term the same as the Vice-President. However, a case of the removal, etc., of both the President and the Vice-President has never yet occurred.

CHAPTER XXXVI.

THE PRESIDENT'S POWERS AND DUTIES.

The American Government. Sections 483-511.

As is remarked in another place, the oath that the President takes on his inauguration is a general definition of his duties. Still the Constitution declares further that he shall take care that the laws be faithfully executed, and shall commission all officers of the United States. More than this, it describes his duties with more or less detail.

392. Army and Navy.—The President is commander-in-chief of the army and navy of the United States, and of the Militia of the States also when they are called into the National service. The effective control of the National forces requires unity of judgment, decision, and responsibility. It is obvious that a congress or a cabinet would be a very poor body to place at the head of an army. The power entrusted to the President is a great one, but he cannot well abuse it so long as Congress alone can declare war, raise and support the army, provide the navy, make rules for the government of the military and naval forces, and provide by law under what conditions the President may call out the militia. The President delegates to chosen officers his authority to command the army and the navy in actual service.

393. The Pardonng Power.—Power to try, convict, and pass judgment upon persons charged with crimes and offenses under the laws of the United States is lodged in the courts alone. But courts sometimes commit mis-

takes, and sometimes special circumstances arise that make it proper to exercise clemency towards persons who are undergoing punishment for crime. So the President, like the executive magistrates of all civilized states, is clothed with power to act in such cases. The President has power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. A reprieve is a temporary suspension of a sentence. A pardon is a full release from it. The President cannot interfere in any case until a court has pronounced a judgment.

394. Treaties.—A treaty is a solemn engagement or contract entered into between two or more sovereign or independent states. They relate to such subjects as commerce and trade, the rights of citizens of one country in the other, etc. Treaties also deal with the graver subjects of peace and war. The power to enter into a treaty properly belongs to the executive branch of government, as dispatch, secrecy, and unity of purpose are called for. As it might be dangerous in a republic to lodge the power exclusively in the Executive's hands, it is provided that the President, by and with the advice and consent of the Senate, shall have power to make treaties with foreign states.

395. Mode of Making a Treaty.—Commonly the steps that are taken are the following: First, the treaty is negotiated or agreed upon by the powers. The negotiation is conducted on the part of our Government by the Secretary of State, a minister residing at a foreign capital, or a minister or commissioner appointed for the purpose. The President, acting through the Department of State, directs the general course of the negotiation. Secondly, the treaty, when it has been negotiated, is wholly in the President's hands. If he disapproves

of it, he may throw it aside altogether. If he approves it, or is in doubt whether he should approve it or not, he submits it to the Senate for its advice. Thirdly, the treaty is now wholly in the Senate's hands, except that the President may at any time that he chooses withdraw it from the Senate's further consideration. The Senate may approve or disapprove the treaty as a whole, it may propose amendments, or it may refuse to act at all. If the Senate amends the treaty it is practically a new one, and both the President and the foreign power must assent to it in its new form. The fourth step is an exchange of ratifications. This is a formal act by which the powers concerned signify that all the steps required to make the treaty binding have been taken. Finally, the President publishes the treaty and by proclamation declares it to be a part of the law of the land. The Senate considers treaties in executive session, and its advice and consent in most cases is merely approval or disapproval of what the President has done. A two-thirds vote of the Senate is necessary for the ratification of a treaty.

396. Appointment of Officers. — The President nominates, and by and with the advice and consent of the Senate, appoints ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States that are provided for by law, unless the Constitution itself provides for them. Congress may, however, place the appointment of such inferior officers as it thinks proper in the President alone, in the heads of Departments, and in the courts. The President appoints his private secretary and clerks. The appointment of a somewhat larger number of officers is placed in the courts, while the appointment of a very great number is vested in the heads of the Executive

Departments. Thus, the appointment of all postmasters whose salary is less than \$1,000 is placed in the hands of the Postmaster-General. When all these exceptions have been made, a large number of appointments still remains to be made by the President and the Senate.

397. Mode of Appointment.—The first step to be taken in filling an office is for the President to make a nomination in writing to the Senate, specifying the office and naming the officer. The Senate refers the nomination to its proper committee, as of a judge to the Committee on the Judiciary, or of a foreign minister or consul to the Committee on Foreign Relations. The committee investigates the subject and reports the nomination back to the Senate, either with or without a recommendation that the nomination be confirmed. The Senate then grants or withholds its confirmation, as it is called. The Senate acts in such a case, as in the case of treaties, in executive session. If the Senate refuses to confirm, the President makes a second nomination, and so on until the place is filled. The Senate sometimes refuses to confirm a nomination if the Senators from the State where the office is, or one of them, objects to it. This is especially the case when the Senator or Senators belong to the political party that for the time has a majority of the body. This custom, which is wholly without support of law, is known as the courtesy of the Senate.

398. Ambassadors and Other Public Ministers.—Public ministers are representatives that one state or nation sends to another to look after its interests. Ambassadors are the highest rank of ministers. The other grades are envoys extraordinary or ministers plenipotentiary, ministers-resident, commissioners, and *chargés d'affaires*. The United States now have ambassadors at the capitals of England, France, Germany, and Italy, and represent-

atives of inferior grade at many other capitals. The salaries paid these representatives, who are collectively called the diplomatic service, range from \$5,000 to \$17,500. The duties and rights of ministers are defined by the Law of Nations, called also International Law.

399. Receiving Ministers.—It is the duty of the President to receive ambassadors and other public ministers sent by foreign powers to our Government. This ceremony involves the recognition of the power from which the minister comes, and also his own recognition as a man acceptable to the United States. The President can refuse to receive a minister because he is personally objectionable, and can dismiss him for the same reason.

400. Consuls.—The duties of consuls are fixed by treaties and by the municipal law of the nation appointing them. In general it may be said that they look after the commercial interests of the country at large, and assist their countrymen in obtaining commercial rights and privileges. They also perform many other duties. They are business agents and do not rank as ministers. Sometimes, however, diplomatic duties are entrusted to them. A consul-general exercises supervision over the consuls of his country within the country to which he is sent, or within some designated portion of it. The President appoints about 30 consuls-general and about 300 consuls. The highest consular salary is \$6,000. Many consuls receive their compensation in the form of fees.

401. Military and Naval Officers.—Unless otherwise provided by law, military and naval officers are appointed in the same manner as civil officers. Still the President, as commander-in-chief, has exclusive control of the commands to which they are assigned. He assigns officers to their places of duty, and removes them for what he deems sufficient reasons. Since 1866 the law

has been that no officer in the military or naval service shall, in time of peace, be dismissed from service except upon, and in pursuance of, the sentence of a court-martial, or in commutation thereof.

402. Removal from Office.—The President has the power of removal as well as of appointment. When the Senate is in session a removal is made in the following way: The President sends to the Senate a nomination, just as though the office were not already filled. If the Senate confirms this nomination, the President then commissions the officer and he enters upon the duties of his office. The former incumbent holds the office until the last of these steps has been taken. If the Senate refuses to confirm, the President must send in a second nomination or allow the incumbent to remain undisturbed. In a recess of the Senate a removal is made in a somewhat simpler way. The President now appoints directly, and at the same time gives the appointee his commission, who enters upon his office at once. When the Senate meets at its next session, the President must send to that body, for its action, the name of the appointee. If the Senate confirms the nomination, that is the end of the matter. If it refuses to confirm, the President must then make a second nomination. In either case the removal of the former incumbent is final and absolute.

403. Vacancies.—When a vacancy in any office occurs while the Senate is in session, the President makes a nomination, and matters proceed just as explained in the last paragraph. When the vacancy occurs in a recess of the Senate, the President appoints and commissions the officer, and the Senate acts on the nomination at its next session just as in the case of a removal made in the recess.

404. The Civil Service.—The persons who serve the Government in civil or non-military capacities are collectively called the civil service. They are divided into two classes called officers and employés. The two classes are not separated by any consistent rule or practice. Officers, who are much inferior in numbers to employés, are appointed and removed. Employés are employed and discharged, not appointed and removed. Laborers in the navy yards, arsenals, and the like are employés; so are many persons in continued service at custom houses and in other offices as well as many clerks. In 1893 the civil service consisted of about 200,000 persons. Of these 69,000 were postmasters and 40,000 others served in the Post-office Department. Twenty-two thousand were workmen. The others were distributed among the other Departments of the Government.

405. Civil Service Reform.—Until a short time ago it was the custom for the President and others who were clothed with the appointing power to make appointments and removals of officers for political reasons. The same practice prevailed also in respect to employés. On a change of the administration, and especially when it involved a change of party, great numbers of officers and employés would be removed or discharged to make room for others. A Democratic administration was expected to turn out the Republicans, and a Republican administration to turn out the Democrats. This was called the spoils system. Soon after the Civil War the civil service began to attract the attention of the country. Men saw that the spoils system was accompanied by great abuses and corruption. In 1882 an act was passed under which the service has been materially reformed. This act does not apply to any *office* where the joint action of the President and

Senate is required to make an appointment. It provides that in the Departments at Washington, and in custom-houses and post-offices where as many as fifty clerks are employed, appointments shall be made by reason of merit or fitness. Competitive examinations are held, and when a new appointment is to be made in any Department or office, as to fill a vacancy, it must be filled from the four persons standing highest on the list of those who have passed the examinations. This is called the eligible list. Every State or Territory is entitled to its fair share of the appointments, and no person can be finally appointed until he has served a probation of six months. This is called the merit system. The President, in the exercise of his discretion as the executive head of the Government, has extended this system to many classes of officers and employés that the law does not in terms include. Mention may be made of the Government Printing Office and of the Postal Railway Service.

406. The President's Message.—The President is required to give Congress information of the state of the Union from time to time, and to recommend to its consideration such measures as, in his judgment, are necessary and expedient for the good of the country. At the opening of each session of Congress, he sends to the Houses a written communication that is styled a message, conveying such information and making such recommendations. He also sends in from time to time special messages, conveying special information or recommendations as occasion requires. The communications in which the President makes nominations, transmits treaties to the Senate, and assigns his reasons for refusing to sign bills are also known as messages. The heads of the several Departments make

annual reports to the President, and these the President transmits at the same time that he sends in his annual message. Collectively they are called the Executive Documents.

407. Special Sessions of Congress.—The President, on extraordinary occasions, may call the Houses of Congress together in special session. In such cases he transmits a message explaining why he does so, and recommending such action as he thinks necessary to be taken. He may also convene either House of Congress alone, and it is the custom for the President, just before retiring from office, to issue a proclamation calling the Senate together immediately following the inauguration of his successor. This gives the new President an opportunity to nominate his Cabinet and such other officers as he thinks important to appoint at that time. No President has ever found it necessary to call the House of Representatives by itself.

CHAPTER XXXVII.

THE EXECUTIVE DEPARTMENTS.

The American Government. Sections 511-524.

The executive business of the Government is transacted through the eight Executive Departments, that Congress has by law created. The President's office in the White House exists only for his personal convenience and is not an office of record. All the public records are kept in the Departments through which the business is transacted. The Departments are established in Government buildings in Washington. The names of the Departments, with the dates of their establishment, are as follows: State, Treasury, War, Justice, formerly called the Office of the Attorney General, and Post-Office, 1789; Navy, 1798; Interior, 1849, and Agriculture, 1889. The heads of these Departments all receive the same salary, \$8,000 a year.

408. Department of State.—At the head of this Department stands the Secretary of State, who is considered the head of the Cabinet. There are also three Assistant Secretaries of State. Under the direction of the President, the Secretary conducts the foreign and diplomatic business of the country. The originals of all treaties, laws, and foreign correspondence are in his custody. He also has in his possession the seal of the United States, and affixes it to public documents that require it, and also authenticates the President's proclamations with his signature. The business of the Department is conducted through various bureaus, such as Archives

and Statistics, the Diplomatic, and the Consular Bureaus, etc.

409. Department of the Treasury.—The Secretary of the Treasury proposes plans for the public revenues and credit, prescribes the manner of keeping the public accounts, superintends the collection of the revenue, issues warrants for the payment of moneys appropriated by Congress, and makes an annual report of the state of the finances. The several auditors of the Department examine the accounts of the different branches of the public service; the comptrollers certify the results to the Register, who has charge of the accounts and is the National book keeper. The Treasurer has the moneys of the Government in his custody, receiving and disbursing them. The Commissioner of Customs looks after the customs, the Comptroller of the Currency after the National Banks, and the Commissioner of Internal Revenue after that part of the public service. There are also directors of the Mint, of Statistics, and of Printing. The head of the Department is assisted by three Assistant Secretaries.

410. Department of War.—The Secretary of War directs the military affairs of the Government. He has charge of the army records, superintends the purchase of military supplies, directs army transportation and the distribution of stores, has the oversight of the signal service and the improvement of rivers and harbors, and looks after the supply of arms and munitions of war. The Department contains ten bureaus: The offices of the Adjutant, Quartermaster, Commissary, Paymaster, and Surgeon Generals, the Chief of Engineers, the Ordnance and Signal Office, the Bureau of Military Justice, and the Military Academy at West Point. There is also an Assistant Secretary of War.

411. Department of Justice.—The head of this Department is the Attorney-General, who is the responsible adviser of the President and the heads of the other Executive Departments on matters of law. He and his assistants look after the interests of the Government in the courts, prosecuting or defending law suits to which the United States are a party, and passing upon the titles of all lands purchased by the Government for forts or public buildings. There are in the Department a Solicitor General, four Assistant Attorney-Generals, two Solicitors of the Treasury, a Solicitor of Internal Revenue, a naval Solicitor, and an Examiner of Claims for the Department of State. The District Attorneys in the different judicial districts are also under the direction of the Attorney-General.

412. Post-Office Department.—Subject to the President, the Postmaster-General is the head of the vast postal service of the country. He has a larger number of subordinates than all the other heads of Departments together. The First Assistant Postmaster-General has charge of salaries and allowances, free delivery, money-orders, dead letters, and correspondence. The Second Assistant has charge of the transportation of mails, including contracts, inspection, railway adjustments, mail equipment, railway mail service, and foreign mails. The Third Assistant has general charge of the finances of the department, including accounts and drafts, postage stamps and stamped envelopes, registered letters and classification of mail matter, special delivery and official files and indexes. The Fourth Assistant has general charge of appointments, including bonds and commissions, appointment of post-office inspectors, depredations on the mails, and violations of the postal laws.

413. Department of the Navy.—The Secretary of the Navy stands to this Department in the same relation that the Secretary of War stands to the War Department. There is one Assistant Secretary. The several bureaus of the department are: Yards and Docks, Equipment and Recruiting, Navigation, Ordnance, Medicine and Surgery, Provisions and Clothing, Steam Engineering, Construction and Repairs. The Military Academy at Annapolis is also subject to the Secretary of the Navy.

414. Department of the Interior.—The business intrusted to the Department of the Interior is much more miscellaneous and diversified in character than that intrusted to any other Department. The Secretary has general oversight of the Patent Office, Census Office, General Land Office, and Pension Office, Indian affairs, Public Buildings, and the Bureau of Education. The most extensive of these subordinate offices is that of Pensions, which disburses \$140,000,000 annually. The Commissioner of Education collects facts and statistics in regard to education and publishes them in an annual report. There are two Assistant Secretaries of the Interior.

415. Department of Agriculture.—It is the duty of the Secretary of Agriculture to diffuse among the people useful information on the subject of agriculture, in the most general and comprehensive sense of that term. He has the supervision of all quarantine regulations for the detention and examination of cattle exported and imported that may be subject to contagious diseases. The Weather Bureau, over which "Old Probabilities" presides, is in this Department. There is one Assistant Secretary.

416. The Cabinet.—The heads of the eight Departments constitute what is called the Cabinet. This name, however, is a popular and not a legal one. The

law creates the Departments and defines the duties of their heads. The Constitution empowers the President to call for the opinions in writing of these officers on matters relating to their several duties. The heads of Departments are responsible to the country so far as their duties are defined by law; for the rest they are responsible to the President. They meet frequently with the President to discuss public business. The President defers more or less, as he pleases, to the views that they offer, as he does to the views that they expressed singly in writing or in conversation, but the Cabinet as such has no legal existence and is not responsible. No official record is made of its meetings. The Constitution makes the President alone accountable for the faithful execution of the laws. Heads of Departments hold their offices subject to the President's will; but he holds, with exceptions given, four years.¹

¹ See the Cabinet and the President's responsibility. See *The American Government*, paragraphs 522, 523, 524, and *Note*.

CHAPTER XXXVIII.

THE JUDICIAL DEPARTMENT.

The American Government. Sections 525-577.

The third of the independent branches of the Government of the United States created by the Constitution is the Judiciary. Its functions and organization will now be described.

417. Judicial Power Defined.—It is the business of the judiciary to interpret the law and apply it to the ordinary affairs of life. The judiciary does not make the law, but it declares what is law and what is not. This it does in the trial of cases, popularly called lawsuits. A case is some subject of controversy on which the judicial power can act when it has been submitted in the manner prescribed by law. It is particularly to be noted that the judicial power is strictly limited to the trial and determination of cases. Some cases involve questions of law, some questions of fact, some questions of both fact and law, and all come within the scope of the judicial power. A court is a particular organization of judicial power for the trial and determination of cases at law.

418. Vesting the Judicial Power.—The judicial power of the United States is vested in one Supreme Court and in such inferior courts as Congress sees fit to ordain and establish. The Constitution thus creates the Supreme Court, and it also provides that its head shall be the Chief Justice of the United States. At the present time the inferior courts are the District Court, the Circuit Court, the Circuit Court of Appeals, the

Court of Claims, and the Courts of the District of Columbia and the Territories.

419. Extent of the Judicial Power.—The judicial power is co-extensive with the sphere of the National Government. It embraces all cases that may arise under the Constitution and the laws of the United States, and the treaties entered into with foreign nations. It includes all cases affecting ambassadors, other public ministers, and consuls; all cases of admiralty and maritime jurisprudence; cases to which the United States are a party; cases that arise between two or more States, or between a State and foreign states; cases between citizens of different States, and cases between citizens of the same State who claim lands granted by different States, and cases between citizens of a State and foreign states, citizens, or subjects.

420. Kinds of Jurisdiction.—A court has jurisdiction of a case or suit at law when it may try it, or take some particular action with regard to it. There are several kinds of jurisdiction. A court has original jurisdiction of a case when the case may be brought or begun in that court. It has appellate jurisdiction when it may re-hear or re-examine a case that has been decided or has been begun in some inferior court. The methods by which this is done are called appeal and writ of error. An appeal brings up the whole question, both law and fact, for re-examination; a writ of error, the law only. A court has exclusive jurisdiction of a case when it is the only court that can try it or can dispose of it in some particular manner. Two or more courts have concurrent jurisdiction of a case when either one may try it, provided the case comes properly before it.

421. The District Court.—Congress has created seventy-two Judicial Districts, in each one of which a Dis-

trict Court is organized. There is at least one district in every State, and in the most populous States there are two or more. There are only sixty-six District judges, as a few of the judges preside over two districts. Each district has its own District Attorney, who is the local law officer of the Government, a Clerk who keeps the records of the court and issues legal papers under its seal, and a Marshal who is the executive officer of the court. A District court must hold at least two terms every year. It has a limited range of jurisdiction in civil cases, and especially in admiralty and maritime jurisprudence; that is, in matters relating to shipping and navigation. It also has jurisdiction of many crimes and offences committed in the district.

422. The Circuit Court.—The seventy-two districts are grouped in nine Circuits. The first circuit contains four States and four districts, the second three States and five districts, and so on. One of the justices of the Supreme Court is assigned to each circuit, and is called the Circuit Justice. There are also two Circuit judges in every circuit. The Circuit court sits from time to time in every district that the circuit contains. It may be held by the Circuit Justice, by one of the Circuit judges, or by the District judge of the district where the court is for the time sitting, or by any two of these sitting together. The district attorneys, clerks, and marshals mentioned before serve these courts also. The Circuit court has original jurisdiction in civil cases where the amount in controversy is \$2,000, not counting costs, in copyright and patent cases, and many others. It has original jurisdiction in criminal cases, and in capital cases an exclusive one; besides it has an appellate jurisdiction in respect to many cases that originate in the District courts.

423. The Circuit Court of Appeals.—In every circuit there is also a Circuit Court of Appeals. It consists of three judges, of whom two constitute a quorum; The Circuit Justice, the Circuit judges, and the District judges of the circuit are competent to sit in this court. The last, however, can sit only for the purpose of making a quorum in the absence of the Circuit Justice or of one or both of the Circuit judges. The law designates the places where these courts shall be held. First circuit, Boston; second, New York; third, Philadelphia; fourth, Richmond, Virginia; fifth, New Orleans; sixth, Cincinnati; seventh, Chicago; eighth, St. Louis, and ninth, San Francisco. The Circuit Court of Appeals can review many decisions made by the Districts and Circuit courts. In patent, revenue, criminal, and admiralty cases its decisions are final. These courts are exclusively courts of appeals, and they were created expressly to relieve the Supreme Court of a part of its business.

424. The Court of Claims.—The Government of the United States carries on vast business operations, and, as is natural, points of dispute are constantly arising. Formerly a person having a claim against the Government that the Executive Departments could not or would not pay, had no redress but to go to Congress for relief. This was unsatisfactory both to claimants and to the Government. To meet this difficulty, the Court of Claims was created and was given jurisdiction over certain classes of claims against the Government. The methods of procedure is for the claimant to enter a suit in court, which is regularly tried and determined. If judgment is rendered against the Government, Congress appropriates money to pay it. This court consists of a Chief Justice and four Associate Justices, and sits only in Washington. Congress has also vested a limited

jurisdiction in respect to claims in the District and Circuit courts also.

425. The Federal District and the Territories.—Congress has established special courts for the District of Columbia and the Territories. The Supreme Court of the District consists of a Chief Justice and five Associate Justices, any one of whom may hold a court with power similar to that exercised by the District judges in the States. The Territorial judicial system is similar to this, but the judges are fewer in number.

426. The Supreme Court.—The Supreme Court consists of the Chief Justice of the United States and eight Associate Justices. It holds one regular term each year at Washington, beginning the second Monday of October. This court has original jurisdiction in all cases relating to ambassadors and other public ministers and consuls, and those to which a State is a party. It has appellate jurisdiction, both as to law and fact, in all cases originating in the inferior courts, save such as Congress by law shall except. Nearly all the cases that the Supreme Court passes upon are appellate cases. Appeals may be made to it, and writs of error lie to it, from the District and Circuit courts, from the Court of Appeals, and from the Supreme Courts of the Federal District and the Territories.

427. Appointment of Judges.—The National judges are appointed by the President by and with the advice and consent of the Senate. The appointments are for good behavior, by which expression official behavior is meant. Nothing is more necessary to a judicial system than the independence of the judges. If they were elected by the popular vote, they might court the popular favor to secure an election. If they served for fixed periods, they might court the Senate and President to

secure re-appointment. The courts of the Federal District and of the Territories do not come within the Constitutional provisions. However, Congress has made the tenure of the first good behavior, and of the second a term of four years.

428. Pay of the Judges.—The salary of a judge can not be diminished while he continues in office, but it may be increased. If Congress could reduce the judge's salary after he had entered upon his term, it might control his action and make him dependent upon its will. The salary of the Chief Justice is \$10,500; of the Associate Justices, \$10,000; of the Circuit Judges, \$6,000; and of District Judges, \$5,000. Any judge who has held his commission ten years and has attained to the age of seventy, may resign his office and continue to draw his salary during the remainder of his life.

429. Concurrent Jurisdiction of National and State Courts.—The Constitution gives the Supreme Court an exclusive jurisdiction in cases affecting public ministers and consuls, and cases to which a State may be a party. Congress has gone further and declared the jurisdiction of the National courts in certain cases to be an exclusive one. Patent and admiralty cases, for example, are of this class. Outside of this exclusive jurisdiction, Congress has given the State courts a civil jurisdiction concurrent with that of the National courts. Still more, some criminal offenses under the National laws may be prosecuted in the State courts, as those arising under the postal laws.

430. Appeals from State Courts.—The Constitution, laws, and treaties of the United States are the supreme law of the land. If the constitution or the laws of a State conflict in any way with this supreme law, such constitution or laws, so far as the confliction extends,

are null and void. Moreover, the power to decide what is, and what is not, a confliction with the National authority rests with the National judiciary. Hence, any case arising in the courts of a State that involves the National authority may be appealed to the National courts. Such cases are said to involve Federal questions. To this extent, therefore, the courts of the United States are the final and authoritative interpreters of the constitutions and laws of the States.

431. Rules Regulating Trials.—A jury system like that found in the States is a part of the National judiciary. All crimes, save in cases of impeachment, must be tried by an impartial jury of the State and judicial district where they have been committed. Crimes committed in the Federal District or in a Territory must be tried in the District or Territory. Crimes committed on the sea are tried in the district in which the accused is arrested, or into which he is first brought when the ship returns to the United States. No person can be put on trial for a capital or infamous crime until he has first been indicted by a grand jury; in such case the trial must be a speedy and public one, and the accused must be informed of the accusation made against him. He shall have the benefit of the compulsory power of the court to compel the attendance of witnesses, and shall also have the assistance of a lawyer for his defense. Excessive bail can not be required, or excessive fines be imposed, or cruel or unnatural punishments be inflicted. No person who has once been tried for an offense and found innocent, can be put on trial for that offense the second time. In a criminal case no man can be compelled to testify against himself, nor can any person be deprived of life, liberty, or property until he has been adjudged guilty according to the common course of the

law. In any civil suit at common law where the amount in controversy is more than twenty dollars, the right of trial by jury is also preserved. Rules like these will be found in the jurisprudence of the several States. These rules, however, relate exclusively to the National tribunals. The Fourteenth Amendment declares that no State shall deprive any person of life, liberty, or property without due process of law.

432. Military Courts.—Cases arising in the military and naval service are tried in special courts called courts-martial. This is true of the militia also when they are employed in the public service in time of war or public danger. In all such cases as these the rule in regard to an indictment by a grand jury has no application.

433. Treason.—Treason against the United States is either making war against them, or siding with their enemies, rendering them aid and comfort. No person can be convicted of this crime, which is considered the greatest of all crimes, except on the testimony of two witnesses to the same offense, or on his own confession of guilt in open court. Congress has enacted two modes of punishment for treason at the discretion of the judge trying the case. The traitor shall suffer death; or he shall be imprisoned at hard labor for not less than five years, be fined not less than \$10,000, and be pronounced incapable of holding any office under the United States.

CHAPTER XXXIX.

NEW STATES AND THE TERRITORIAL SYSTEM.

The American Government. Sections 584-597.

The Territorial System of the United States has played a very important part in their history. It is proposed in this chapter to show how it originated, and to describe its principal features.

434. The Original Public Domain.—At the time of the Revolution seven of the thirteen States claimed the wild lands lying west of the Alleghany Mountains and extending to the Mississippi River and the Northern Lakes. These were then National boundaries. In time these States yielded their claims. When the Constitution was framed in 1787, the country northwest of the Ohio River had already come into possession of the Old Congress. The Southern cessions were made later. In general, the cessions to the Nation included both soil and jurisdiction—the ownership of the land and the right to govern the territory. The Northwestern cessions constituted the first Public Domain of the United States; that is, a territory belonging to the Nation in common. The Constitution gave Congress the power to dispose of the National territory, and to make all needful rules and regulations for its government. Before this, however, Congress had established a government over the existing domain, which was styled the Northwest Territory.¹

435. Annexations —Seven annexations of territory have been made to the United States: Louisiana purchase,

¹ See Chapters IV. and V.

1803; Florida, 1819; Texas 1845; Oregon, 1846; the two Mexican annexations, 1848 and 1853, and Alaska, 1867. These annexations, with a single exception, were additions to the public domain and became at once subject to the control of Congress. This exception was Texas, which had been an independent power and was admitted to the Union as a State at once without passing through the Territorial probation. Subsequently Texas sold that part of her dominion which now forms the eastern part of the Territory of New Mexico to the United States.

436. Provision for New States.—The claimant States made their cessions of Western territory on the condition that, as rapidly as it became ready, such territory should be divided into new States to be admitted to the Union on an equality with the old ones. So a provision was inserted in the Constitution that authorized Congress to admit new States to the Union. But this was not all; some controversies had already arisen concerning the formation of new States out of old ones. So it was provided that no new State should be formed within the jurisdiction of any State, nor should any new State be formed by uniting two or more States, without the consent of the Legislatures concerned as well as of Congress.

437. Territories of the United States.—In a broad sense the whole dominion of the United States is their territory, States and Territories alike. But in common usage the term territory is limited to so much of the whole dominion as has not been formed into States. Still further, as thus limited the word is employed in two senses. An organized Territory is a part of the dominion having prescribed boundaries and a fully developed Territorial Government. Arizona, New Mexico, and Oklahoma are the only Territories of this class. An unorganized

Territory either has no government at all, or has a very rudimentary one carried on by officers sent from Washington. Thus civil government is administered in Alaska, which is an unorganized Territory, by a Governor and Commissioners appointed by the President and Senate.

438. Government of an Organized Territory.—Such a government is set up by Congress. The Governor, Secretary, and Territorial Judges are appointed by the President for four years, and are paid from the National Treasury. The Legislature consists of a house of representatives and a council, the members of which are elected by the qualified voters of the territory. The Legislature legislates on subjects of local concern, subject to the Constitution and laws of the United States. For example, it may establish counties and townships and local self-government for the people. It may also establish a Territorial system of schools. The Governor exercises powers similar to those exercised by the Governor of a State, while the Secretary performs duties similar to those performed by a State Secretary of State. There are also a District Attorney and a Marshal appointed by the President. A Territory can not be represented in Congress or participate in the election of President and Vice-President. Still an organized Territory is permitted to send a delegate elected by the people to the House of Representatives, who may speak but not vote. It will be seen that the status of a Territory is in all respects inferior to that of a State. A Territory is an inchoate State.

439. Admission of New States.—This subject has been committed wholly to the discretion of Congress. Congress makes the boundaries of the State, fixes the conditions of admission, gives the State its name and

determines the time of admission. Congress settles some of the details in the act creating the Territory, and still others in a law providing for its admission called an Enabling Act. The principal steps to be taken are the following: First, the people of the Territory elect the members of a convention to frame a State constitution. Secondly, the convention thus elected performs the duty duly committed to it. Thirdly, the constitution is submitted to the people for their approval. Fourthly, Representatives and Senators are elected to represent the new State in Congress. Fifthly, comes the formal act of admission, which is sometimes performed by the President, who issues a proclamation to that effect in compliance with a law previously passed, and sometimes is performed by Congress passing an act called an act of admission.

440. States Admitted.—Thirty-two new States have been admitted to the Union. Vermont, Maine, West Virginia, Kentucky, and Tennessee were formed from old States and were never Territories. The facts in regard to Texas have been stated already. The other States, twenty-six in number, have been formed from the public domain; and, save California alone, have passed through the Territorial probation.

441. Indian Territory.—Some sixty years ago this Territory was set apart and dedicated by Congress as a home for so-called civilized tribes of Indians. Many tribes and portions of tribes were removed there from east of the Mississippi River. The Indians keep up their tribal organization of government, but they are subject to the general oversight of Congress. There is a United States court in the Territory, which exercises jurisdiction over offenses committed against the laws of Congress so far as they are applicable.

442. The Public Lands.—Beginning in Southeastern Ohio, in 1786, the Government has caused the public lands to be surveyed according to a practically uniform system. They are first cut up into townships six miles square, and then these are subdivided into sections of 640 acres, which again are divided into lots of 160, 80, and 40 acres. The sections are now numbered, back and forth, in the following manner:

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Such a township as this is called a Congressional township. As a rule, the States have based their divisions of counties and townships on the Government surveys, and it is this fact that gives the maps of the Western States such a checker-board appearance. In general Congress has followed a very liberal policy in respect to the public lands, selling them at low prices, giving them away as bounties to soldiers and to settlers under the homestead law, and granting them to States and railroads and other corporations to stimulate education and public improvements.

443. School Lands.—Beginning with Ohio, admitted to the Union in 1803, and continuing to Wisconsin, ad-

mitted in 1848, Congress gave section No. 16 in every Congressional township to the people of the township for the use of common schools. Beginning with California, in 1850, and continuing to the present, it has given sections 16 and 36 in every township for that purpose. Congress has also given every public-land State, or State formed out of the domain, two townships of land for the support of a State university, and some of them more than two. It has also given lands for agricultural colleges and normal schools, and for other educational purposes.

444. New States.—The following table contains the names of the new States, and the dates of their admission to the Union:

Vermont, March 4, 1791.	Wisconsin, May 29, 1848.
Kentucky, June 1, 1792.	California, September 9, 1850.
Tennessee, June 1, 1796.	Minnesota, May 11, 1858.
Ohio, February 19, 1803.	Oregon, February 14, 1859.
Louisiana, April 8, 1812.	Kansas, January 29, 1861.
Indiana, December 11, 1816.	West Virginia, June 19, 1863.
Mississippi, December 10, 1817.	Nevada, October 31, 1864.
Illinois, December 3, 1818.	Nebraska, March 1, 1867.
Alabama, December 14, 1819.	Colorado, August 1, 1876.
Maine, March 15, 1820.	North Dakota, Nov. 2, 1889.
Missouri, August 10, 1821.	South Dakota, Nov. 2, 1889.
Arkansas, June 15, 1836.	Montana, November 8, 1889.
Michigan, January 26, 1837.	Washington, Nov. 11, 1889.
Florida, March 3, 1845.	Idaho, July 3, 1890.
Texas, December 29, 1845.	Wyoming, July 10, 1891.
Iowa, December 28, 1846.	Utah, January 4, 1896.

CHAPTER XL.

RELATIONS OF THE STATES AND THE UNION.

The American Government. Sections 419-445; 578-583; 598-603; 608-620; 623-631; 644-654; 763-772.

Part II of this work describes the government of a single State. The preceding chapters of this Third Part describe the Government of the Union in its general features. It is very obvious that either one of these governments, by itself, would be very imperfect. It is equally obvious that they supplement each other. Each one is essential to the other and to society, and neither one is more essential than the other. The two together make up one system of government. The governments of the States are part of the Government of the Union, and the Government of the Union is a part of the governments of the States. The citizen is subject to two jurisdictions, one State and one National. Both of these jurisdictions have been created by the American people, and each one is exclusive and independent within its sphere. In other words, the United States are a federal state, and their Government is a federal government. Moreover, experience shows that such governments are complicated and delicate, and that they will not work well unless the two parts, local and general, are well adapted each to each like the parts of a machine.

445. The State Sphere.—The sphere of the State is well marked off. Matters of local and State concern are committed to its exclusive authority. Within its sphere,

the State is perfectly free to do what it pleases, taking good care not to infringe upon the sphere of the Union. It is the great business of the State government to preserve the peace and good order of society within its borders. It defines civil and political rights; defines and punishes crime; protects the rights of property, of person, and of life; regulates marriage and divorce; provides schools and education for the people, and does a hundred other things that it deems necessary to promote the physical, intellectual, and moral well-being of the people.

446. The National Sphere.—This is equally well defined. Matters of general, common, or National interest are committed to the Union. Here are the powers to levy taxes and borrow money for National purposes; to regulate foreign commerce; to conduct war; to carry on the post-office; to manage foreign relations, and to exercise the many other powers that are delegated by the National Constitution. It will be seen that these are matters in which the whole American people are interested. Within its sphere, the Nation is just as free and unlimited as the State is within the State's sphere.

447. The State and the Union.—Neither one of these jurisdictions is, strictly speaking, limited to matters purely local or purely national. The State does more than merely to look after local interests. The Union does more than merely to see to National affairs. Either authority does some things that, at first thought, might seem to belong exclusively to the other. In this way, great strength is imparted to the whole system, and it is made to do its work more thoroughly. This a series of paragraphs will show.

448. National Functions of the States.—The State participates directly in carrying on the Government of

the Union. It defines the qualifications of electors, establishes Congressional districts, conducts the elections of Representatives, elects members of the United States Senate, and appoints Presidential Electors. All these things are purely voluntary. The States cannot be compelled to do them, but if they should refuse or neglect to do them the whole National system would fall into ruins. But, more than this, the Union employs the State militia, and imposes duties upon the governors and judges of the States.

449. Prohibitions Laid on States.—The successful working of the National system makes it necessary that certain prohibitions shall be laid on the States. No State can enter into any treaty, alliance, or federation; coin money, issue paper money, make anything but gold and silver a tender in payment of debts, pass any law interfering with contracts, or grant any title of nobility. No State, without the consent of Congress, can levy duties or imposts on imports and exports, beyond what is necessary to pay the cost of its inspection service. No State can, without the consent of Congress, lay any tonnage tax on ships, keep troops or ships of war in time of peace, or enter into any compact or agreement with another State or a foreign power. No State can engage in war, unless it is actually invaded or in immediate danger of invasion.

450. Duties of State to State.—If the National System is to work smoothly, it is obvious that a good understanding among the States is necessary. The Constitution accordingly lays various commands upon the States in respect to their relations one to another. The acts, records, and judicial processes of any State are respected by every other State, so far as they can have any *application*. For example, a marriage contracted or a

divorce granted in one State is a marriage or a divorce in every other State. Citizens of one State passing into another State are entitled to all the rights and privileges that the citizens of such State enjoy. If a person who is charged with any crime in one State flees from justice and is found in another State, it is the duty of the Governor of the State to which he has fled to surrender him on the demand of the Governor of the State from which he has fled, that he may be brought to trial and, if guilty, to punishment.

451. Privileges and Immunities of Citizens.—Section one of Amendment XIV. declares all persons born and naturalized in the United States and subject to their jurisdiction, to be citizens of the United States and of the State wherein they reside. It contains also the following declarations: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Union owes several important duties to the State.

452. Republican Form of Government.—The Union guarantees to every State a republican form of government. If a non-republican government should be established in any State by revolution or otherwise, it would be the duty of the Union to interfere and see that republican government be re-established. Power to decide in such cases what a republican form of government is, belongs to Congress.

453. Invasion and Domestic Violence.—The Union must also protect the States against invasion, and in emergencies against domestic violence. These duties are

the more necessary because the Constitution denies to the States the right to keep troops and ships of war in time of peace. If any State is invaded it is the duty of the President to call out the National forces to repel the invasion. In the first instance it is the duty of the State authority to suppress domestic violence within its borders, but if such authority in any case thinks the assistance of the United States to be necessary or advisable, it has the right to call for such assistance. The Legislature, if it be in session, and otherwise the Governor, makes the call. This call is addressed to the President, who takes such steps as he thinks necessary to accomplish the object.

454. The National Authority and the Public Peace.—There are, however, certain emergencies in which the President can act directly to suppress domestic violence. When such violence interferes with the operations of the National Government, he need not wait for the State Legislature or Governor to call for assistance, but is in duty bound to act at once to protect the operations of the Government and so to restore the public peace. Thus, when the United States mails and inter-State commerce were interrupted in Chicago in 1894, President Cleveland ordered the National forces to protect the mails and the railroads.

455. Supremacy of the Union.—The Constitution, laws, and treaties of the United States are the supreme law of the land. They supersede State constitutions and laws whenever these constitutions and laws encroach upon the supreme law. To secure this end, the judges of the State courts, in interpreting and declaring the law, must side with the United States, rather than with the State, in all cases of conflict. To secure this supremacy the more completely, Senators and Representatives

of the United States, members of the State Legislatures and all executive and judicial officers, both of the United States and of the States, must take an oath or affirmation to support the Constitution of the United States. But no religious faith, opinion, or rite can be made a qualification for holding any office of public trust under the United States.

There are also many prohibitions laid upon the National authority. Several of these have been dealt with already in other places; others will be mentioned in this place.

456. Writ of Habeas Corpus.—In countries where this writ is recognized, a sheriff or other officer, or even a private individual, who has a person in his custody whom he is depriving of his liberty, can be made to show cause why he holds him. The person who is held as a prisoner, or other person in his interest, appeals to a court of competent jurisdiction for a writ of *habeas corpus*, which commands the officer or other person to bring his prisoner into court. If he can show no sufficient cause for holding him, the prisoner is set at liberty. This writ is one of the great bulwarks of personal liberty, and the Constitution provides that the privilege of the writ shall not be suspended unless in time of rebellion or invasion when the public safety requires it.

457. Bills of Attainder and Ex Post Facto Laws.—A bill of attainder is a legislative act that inflicts punishment of some kind upon a person without a judicial trial. An *ex post facto* law is a law that places some punishment upon an act that was not placed upon it when the act was done. Both the State Legislatures and Congress are forbidden to pass any bill of attainder or *ex post facto* law.

A statement of several restrictions that are imposed upon the States or the Union, or both States and Union, may fitly close this work.

458. Titles of Nobility.—These would plainly be out of character and be corrupting in tendency in a republican country. Republicanism assumes the equality of citizens. So it is provided that neither the United States nor any State shall grant any title of nobility. Furthermore, no officer of the United States can, without the consent of Congress, accept any present, office, or title from any king, prince, or foreign state.

459. No National Church.—Congress can pass no law in relation to a state church or establishment of religion, or prohibit the free exercise of religion. All churches and religions are, so far as the National authority is concerned, put on the same level. The separation of Church and State is a fundamental principle of American polity.

460. Freedom of Speech and the Right of Petition.—Congress can pass no law abridging the freedom of speech or of the press, or denying or limiting the right of citizens peaceably to assemble and to petition the Government for a redress of grievances. This provision, however, is no defense of license of speech or printing, such as slander or libel, or of public tumult and disorder.

461. Soldiers in Private Houses.—Tyrannical rulers have often accomplished their purpose of oppression by quartering soldiers in the houses of citizens, to overawe and intimidate them. In the United States soldiers can not be quartered in private houses without the consent of the occupants in time of peace, and not in time of war save in a manner that is prescribed by *law*.

462. The Militia.—Tyrannical governments have often found it necessary, in order to accomplish their purpose, to suppress the citizen soldiery, or to deny the people the right to keep and to bear arms. Our Constitution provides that, since a well regulated militia is necessary to the security of every state, the right of the people to keep and bear arms shall not be infringed.

463. Searches and Seizures.—Oppressive rulers have often, or generally, held themselves at perfect liberty to search the papers and persons of citizens or subjects, in order to find evidence for criminating them or for establishing their own tyranny the more thoroughly. Our Constitution provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated. Warrants for the purpose of making such seizures shall not be issued by magistrates unless there is probable cause for issuing them, which must be sworn to by the complainant; and even then they must particularly describe the place to be searched and the persons and things to be seized.

QUESTIONS.

The following questions will be found useful for review, for class discussion, and for investigation outside the school. Teachers also will find them of advantage in directing their studies to particular topics. Answers will not be found to all of them in this book. The historical questions, Part I., are selected from a longer list prepared by Mr. Fred W. Ashley, Principal of Western Reserve Academy, Hudson, O., as a basis for awarding the prize that Governor Bushnell offered to the student of that school who should submit the best paper in answer to them. The selections are published here by permission.

PART I.

1. Who were the earliest inhabitants of Ohio ? What evidences of their existence yet remain ?
2. What traces of the Indians remain ?
3. Where was the first fort in Ohio ? Who built it ?
4. What is the first historical event that greatly influenced the course of Ohio history ?
5. What name was officially given to the Western Reserve after it became a part of the Northwest Territory ? Why was the name appropriate ?
6. What had the physical geography of Ohio to do with its settlement ?
7. What were the race elements among its early settlers ?
8. Why was St. Clair an unpopular Governor of the Northwest Territory ?
9. What were the immediate effects of the Ordinance of 1787 ?

10. What were the immediate effects of the Treaty of Greenville ?

11. What is the exact boundary between Ohio and Kentucky ?

12. When and how was the first settlement made on the site of Cincinnati ?

13. What was the original name of Cincinnati ? What did it mean ? Why was the name Cincinnati substituted, and what history lies back of that name ?

14. When did the United States acquire from the Indians the title to the last bit of land in the State ?

15. When Ohio was admitted, who owned the unsold land ?

16. Who drafted the Ordinance of 1787 ?

17. Who was the first white man to sail down the Ohio ?

18. What was the name of the first newspaper published in Ohio ? Where ? When ?

19. What is the oldest County in the State ? The youngest ?

20. What is the oldest college in Ohio ?

21. How many times has Ohio been invaded by hostile forces ?

22. In what way is Ohio connected with the history of Major John André ?

23. What was the first book printed in Ohio ?

24. When will the electors have the next regular opportunity to say whether they wish to change the Constitution of the State ?

25. What were the Black Laws ? When passed ? When repealed ?

26. When and how was the first settlement made on the site of Cleveland ?

27. How did Salmon P. Chase come to be a Senator ?

28. When did the British give up possession of the last post in Ohio ?

29. What were the most important fugitive slave cases arising in Ohio ?

30. How did Ohio's Congressmen stand on the Kansas-Nebraska Bill ?

31. How many Presidents of the United States were born in Ohio?

32. How many Presidents are buried in Ohio?

33. What was Ohio's share in the nomination of Abraham Lincoln?

34. What is the largest and what is the smallest County?

35. How did Ohio's Senators and Representatives in Congress vote on the Missouri Compromise?

36. Who have been Ohio's most distinguished Governors, and for what were they distinguished?

37. What history lies back of the names of the following Counties: Crawford, Defiance, Logan, Lucas, Portage, Ross, Summit, Preble?

38. What history lies back of the names Norwalk, Marietta, Tiffin, Circleville, Zanesville, Xenia?

39. What Ohio family was distinguished by the number and notability of the members it contributed to the Civil War?

40. Who is the most illustrious victim of the Civil War buried in Ohio soil?

41. What have been the two most notable events in the history of Darke County?

42. What great statesmen were Ohio men?

43. What great jurists were from Ohio?

44. What generals of note were Ohio men?

45. What prominent educators were Ohio men?

46. What authors of note were born in Ohio?

47. How many of the Senators and Representatives in the present Congress were born in Ohio?

48. Name as many works of fiction and poetry as you can whose scenes are laid in Ohio?

49. Where was the first church erected in Ohio?

50. What sons of Ohio are honored with statues in the National Capitol?

PART II.

X.¹—1. What is the difference between the State and the Government? 2. What are the advantages and disadvantages of the three primary kinds of Government? 3. What are the comparative advantages and disadvantages of dual and central Government? 4. What is the difference between the United States as a state and Ohio as a State? 5. What is the difference in the process between changing the laws of Ohio and changing the Constitution? 6. Why should there be any difference?

XI.—7. How did local government originate in England? 8. Describe the development of the three types of local government in the thirteen English Colonies, and their extension in the United States. 9. What are the comparative merits of the town, city, and mixed types of local government? (See THE AMERICAN GOVERNMENT, paragraphs 68-87, and Chap. LIV.) 10. Which of these three types prevails in Ohio? 11. What is the difference between an original surveyed township and a civil township? 12. What one officer in the township connects the township directly with the State? 13. How many Justices of the Peace in your township? 14. How, when, and where are the School Directors elected?

XII.—15. In what points do the duties of County Commissioners and Township Trustees agree? 16. In what points do they differ? 17. How can the County-seat of your County be moved? 18. What authorities in the County can build bridges?

XIII.—19. Is the city more like the Township or the County? 20. What authority makes the city Charter? 21. What board in the Township corresponds to the City Council? 22. In the County? 23. What corresponds to it in the State? 24. What officer in the State corresponds to the Mayor of the city? 25. Why are there no corresponding officers in the Township and County? 26. Where are evils most likely to spring up, in the Township, county, City, or State Government?

¹ The Roman numerals at the beginning of the paragraphs refer to the corresponding chapters of this book.

XIV.—27. Should the Governor of the State have the veto power? 28. Why should Senators and Representatives be exempt from arrest, as in section 168? 29. Why did not the Constitution divide the State into permanent Senatorial and Representative districts? 30. What is the history of the word "Gerrymander"? 31. Why should not the State Senators' term be as long as that of National Senator?

XV.—32. Why should the Speaker of the House be permitted to vote, while the Lieutenant-Governor is not, save in cases of a tie? 33. Why should the presiding officers of the two Houses sign the bills that become laws?

XVI. 34. Name the executive officers created by the Constitution. 35. Why does the Governor need a military staff? 36. Why should not the term of the Governor be as long as that of the President?

XVII.—37. What courts in the National system correspond to the Common Pleas, Circuit, and Supreme Courts in the State system? 38. What is the need of a Grand Jury? 39. Why not leave the law in a lawsuit to the jury as well as the facts? 40. Why not leave the facts to the judge as well as the law? 41. The State judges are elected, the National judges appointed; which is the better way?

XVIII.—42. Why should the schools of a Township be put in charge of a single board? 43. Which is better, to have the Superintendent of a city system of schools appoint the teachers, or have the Board of Education elect them? 44. What has the State Commissioner of Common Schools to do with the school to which you belong? 45. How much money is spent for schools in your township, town, or city? 46. What proportion of the money raised in the State by taxation is devoted to education?

XIX.—47. Why should voters be registered in the cities while they are not registered in the country? 48. What is the duty of a challenger at an election, and who appoints him? 49. Why should women vote for school officers so long as they do not vote for other officers?

XX.—50. Give the names of the great political parties that have figured in the history of the United States? 51. How are candidates nominated in your township, town, or city by the different political parties? 52. How in your county? 53. What are the abuses of the caucus? 54. Has the political machinery of the country affected State politics or National politics the more? 55. How has this machinery affected the election of President and Vice-President? (THE AMERICAN GOVERNMENT, Chap. XXX.)

XXI.—56. Enumerate the taxing authorities of the State. 57. Why should the property mentioned in section 256 be exempt from taxation? 58. Why does the Legislature fix limits to the amount of tax that the local authorities may levy? 59. Why should not real estate be assessed as often as personal property?

XXII.—60. What is the need of a State militia system? 61. What are the provisions of the National Constitution in relation to the State militias?

XXV.—62. What is a bill of rights, and what is its value? 63. Which is easier to amend, the Constitution of Ohio or that of the United States?

XXVI.—64. Name all the jurisdiction that a citizen of Ohio lives under. 65. Why should the National Constitution and laws be supreme over those of Ohio? 66. What are the National functions that the State performs? 67. Why should not the National Government itself take charge of the election of Representatives to Congress? 68. What is the doctrine of nullification? 69. What is the doctrine of secession? 70. Why should the officers of the States take an oath to support the Constitution of the United States?

PART III.

XXIX.—1. The relative merits of Governments of laws and Governments of persons? 2. Why does a Government of laws involve the three functions? 3. Why should these three functions, in the main, be vested in three different departments?

XXX.—4. Should the representation of the States in the House of Representatives be according to population? 5. Should the representation of the States in the Senate be equal? 6. Should Congress leave the making of the Congressional districts to the State Legislatures? 7. What are the advantages of having State and National elections come on the same day? 8. Why should the nation pay the Senators and Representatives, and not the States themselves?

XXXI.—9. Why should legislative Houses be the judges of the elections, returns, and qualifications of their own members? 10. Why should such Houses make their own rules? 11. The President of the United States has the veto power, the Governor of Ohio has not; which is the better way? 12. What are the advantages of the Committee Systems? 13. Why should the two Houses of Congress sit at the same place?

XXXII.—14. Why require a two-thirds vote in impeachment cases? 15. What were the charges made against President Johnson when he was impeached?

XXXIII.—16. Why not admit the foreigner at once to all the privileges of the Government? 17. Why give the right to coin money to the United States and deny it to the States? 18. Why give Congress power to fix the standard of weights and measures? 19. Why should Congress control the postal service? 20. Why should there be a Federal District under the jurisdiction of Congress?

XXXIV.—21. Why should the Presidential electors all be appointed on the same day in all the States? 22. Why should the electoral colleges meet and vote on the same day? 23. If the electoral colleges do not elect a President, why should the House of Representatives rather than the Senate make the choice? 24. Why

should the electors be chosen by the people rather than by the Legislatures themselves?

XXXV.—25. Why should the Vice-President have the same qualifications as the President? 26. Why not elect a President for life or good behavior? 27. Who presides over the Senate when the Vice-President becomes President?

XXXVI.—28. Why should the President have so much power in making appointments? 29. Why should a two-thirds vote be required to ratify a treaty, when a majority suffices to enact an ordinary law? 30. What are the peculiar abuses of the spoils system? What is Civil Service Reform?

XXXVII.—31. What is the need of Executive Departments? 32. Why should the President, and not the heads of Departments, be held responsible for the execution of the laws? 33. What is the difference between the Cabinet of the United States and the Cabinet of England? 34. Why do not the States have Cabinets?

XXXVIII.—35. Why have courts-martial for the Army and Navy? 36. What are the principal points in which such courts differ from the civil courts? 37. Why should two witnesses be required, save in the case of confession in open court, to convict a man of treason? 38. Why is treason considered such a grave offense? How is it punished in the United States?

XXXIX.—39. Why are new States commonly required to pass through the Territorial stage? 40. What are the principal points of difference between an organized Territory and a State? 41. What has been the object of Congress in appropriating lands for education? 42. What quantities of educational lands has Ohio received, and for what specific purposes?

XXXX.—43. What are the peculiar advantages of Federal Governments? 44. Why give such National functions as those described to the States? 45. Why should the National Constitution, laws, and treaties be the supreme law of the land? 46. What are the objections to bills of attainder and *ex post facto* laws?

TOPICAL REVIEW OF THE NATIONAL GOVERNMENT.

I. Colonial Governments consisted of

- (1) An Assembly,
- (2) A Council,
- (3) A Governor, and
- (4) Courts of Law.
2. The Assembly was chosen by the people.
3. The Council, Governor, and Judges were appointed in various ways.
4. The Colonists possessed the rights of English subjects.
5. Parliament had power to nullify any law passed by the Colonies.
6. The Colonies owed a double allegiance; they were subject—
 - (1) To their own laws, and
 - (2) To those of Great Britain.
7. The Crown and Parliament had supremacy in national affairs.
8. The Colonial Governments were supreme in local affairs.
9. The attempt of Parliament to tax the Colonies precipitated the conflict which ended in independence.

II. Political Effects of Independence.

1. The Colonies became free and independent States.
2. The Union that had existed through Great Britain now existed through Congress.
3. The powers of Congress were defined by the Articles of Confederation.
4. Their inadequacies were supplied by the Constitution.
5. How the Constitution was framed.
6. How it was ratified.
7. The views of its friends and its enemies.
8. How the government was inaugurated.
9. How amendments may be proposed and ratified.
10. The amendments enumerated and characterized.
11. The preamble an enacting clause.
12. The preamble involves five things: *a.* The people enact it. *b.* It establishes a more perfect union. *c.* It establishes a constitutional government. *d.* It creates a federal state. *e.* The people delegate some powers and reserve others.
13. The provisions of the Constitution are embodied in VII. articles.

III. How Powers are Distributed.

1. A Legislative Department makes the laws. The President may veto and the Supreme Court annul them.

2. An Executive Department enforces and administers the laws. Congress may impeach.
3. A Judicial Department interprets and applies. The Legislative Department may impeach and the President and the Senate appoint or remove.

IV. The Legislative Department.

1. It is bicameral — two-chambered.
2. How the House is elected.
3. Qualifications of Representatives and Senators.
4. The qualifications of electors.
5. How Senators are elected: the four steps.
6. How vacancies are filled.
7. Classes of Senators.
8. Who may vote for Representatives.
9. How Representatives are apportioned.
10. The decennial census.
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14. Privileges of members of Congress.
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16. Length of each Congress.
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18. Officers of the Senate.
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21. Quorums to transact business.
22. Rules governing proceedings.
23. Power to punish its own members.
24. Journals and voting.
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 12. Oath of office.
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 14. The Presidential succession.
 15. Commander-in-chief.
 16. Power to pardon, except in impeachment cases.
 17. Makes treaties by aid of Senate.
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 13. Bills of attainder and ex post facto laws.
 14. No titles of nobility conferred — none to be accepted by public officers.
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